AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

1-26-88
Vol. 53 No. 16
Pages 1997-2212

federal register

Tuesday
January 26, 1988

Briefing on How To Use the Federal Register—
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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 297

Privacy Procedures for Personnel Records

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Under the authority of the Privacy Act of 1974, the Office of Personnel Management (Office) is adopting regulations regarding privacy procedures for personnel records. These regulations will provide for more effective management of records maintained by the Office and, for records under the Office's control and ownership, by other Federal agencies. These regulations also promulgate exemptions for a new system of records.

EFFECTIVE DATE: These regulations become effective February 25, 1988.

FOR FURTHER INFORMATION CONTACT: John Sanet, (202) 632–4455.

SUPPLEMENTARY INFORMATION: These regulations were proposed in the Federal Register on August 4, 1987, at 52 FR 28833. The 60-day comment period ended on October 5, 1987. Four written comments were received. Two letters received from labor organizations stated that they had no comments or recommendations to submit regarding the proposed regulations. An analysis of the other two written comments and the Office's decision on each appears below.

One labor organization suggested that a time frame be included in the regulations [§ 297.306] for appealing an agency denial of a request by the subject of a record to amend that record. While the Privacy Act does have a statutory time limit regarding how long an agency has to decide an appeal from an initial amendment decision, the law is silent on the time frame a requester has to file such an appeal. The experience of the Office indicates that most individuals appeal within 30 days from the initial decision. However, the Office does not find that imposing a strict regulatory requirement will assist the individuals in exercising their appeal rights; therefore, the suggestion was not adopted.

The same labor organization expressed concern that the suggested time frame of "as soon as practicable" in § 297.402(b) and § 297.403(g) for providing notice to the subject of a record of a compulsory legal process is too vague; it was suggested that the Office furnish the employee with such notice "immediately upon its receipt." Additionally, it was recommended that the employee be furnished with a copy of the materials subject to the compulsory legal process no later than seven days after such information has been forwarded to the court, thereby assuring an employee of a full exercise of his or her legal rights. In responding to compulsory legal process for records it maintains, the Office first must try to locate the last known address of the individual; when that can be done (usually by retrieving the Official Personnel Folder or retirement file), the Office then immediately provides the employee with a *copy of the notice* of the compulsory legal process. The term "as soon as practicable" is necessary to allow the Office an opportunity to locate the record containing the last address of the employee. At that time, notification is immediately provided. Therefore, the office believes that a reading of the entire § 297.402(b) accomplishes the objectives of the suggestion and meets the statutory requirement of 5 U.S.C. 552a(e)(8). With respect to providing the data subject copies of the requested material, as required by the Privacy Act, the Office will provide such material if the data subject makes a specific request for it. The Office does not believe that providing the material without a specific request is appropriate or necessary. Therefore, these two suggestions are not adopted.

One agency suggested that § 297.204, regarding access to records by a representative of a data subject, include a specific reference to union representatives and that the regulations state whether the general designation of a union as the employee's representative will grant access by any union official, or whether the employee must specify the names of the union officials who are authorized to access the records. The Privacy Act requires that an individual be provided access to records or information contained within a system of records that pertains to that individual. The Act further provides that an individual can designate "a person of his own choosing" to either assist or act for the individual in this regard. That representative can be a union, a law firm, a relative, or anyone the individual designates in writing. If the individual wants a union or any specifically-named union representatives (or to any other specific category or person), as written authorization. The Office does not find it appropriate to include in these regulations a specific reference to union representatives § 297.20s (or to any other specific category of person). To do so would lead to confusion over whether other categories of representatives, not specifically mentioned, are precluded from acting in a representative capacity. Similarly, the term "representative" is understood to mean one who stands for or acts as an agent for the individual. This can mean an individual or it can mean a group of individuals, like a union or law firm, if the individual has chosen the group as the representative. Therefore, the suggestion is not adopted.

The same agency also commented on § 297.206(a) regarding fees charged by the Office. The agency requested clarification of the phrase "produce a record" in § 297.206(a). The Office agrees the clarification is needed and has modifed that section to state that the phrase "produce a record" encompasses providing a photostatic copy of the record. In addition, the agency noted that, while the Privacy Act permits an agency to charge a fee when the data subject requests copies of records, the Freedom of Information Reform Act provides for the first 100 pages of reproduction of documents without charge; therefore, the last sentence of § 297.206(a) needs clarification. The Office is aware that the Privacy Act has always permitted an agency to charge a data subject for copies of records provided to the individual; however, it has always been the policy of the Office not to charge

individuals who request the first copy of the records. The Office's fee schedule is published at 5 CFR 294.109 and was modified in April of this year to reflect the requirements of the Freedom of Information Act. As stated at 5 CFR 294.109(g), there will be no charge for the first 100 pages of paper copies for requesters. This will include data subjects making requests for access to their own records whether they submit a Privacy Act request or a Freedom of Information Act request for access to their records. It should be noted that § 297.206 applies only to fees charged by the Office and does not place any restrictions on agencies in this regard. Since the Office as a matter of policy does not charge for the first copy of producing records to a data subject, no matter how many pages are provided, the Office does not believe this section warrants change. In those rare instances where an individual requests duplicate copies of records and the total number of pages is less than 100, the Office as stated § 297.206(a) will follow the established fee shedule and provide the total number of pages free of charge. Therefore, the suggestion was not adopted.

Finally, the agency suggested that § 297.404(g) be amended to include a statement "Notice of the issuance of an ex parte order or subpoena is not required if the system of records has been exempted from the notice requirement of 5 U.S.C. 552a(e)(8) pursuant to 5 U.S.C. 552a(j), by a Notice of Exemption published in the **Federal Register**." The Office agrees with that suggestion and has changed § 297.403(g) accordingly.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it is concerned only with the administration of personnel records for certain civilian employees.

List of Subjects in 5 CFR Part 297

Privacy, Records, Government employees.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is revising Part 297 of Title 5 of the Code of Federal Regulations to read as follows:

PART 297—PRIVACY PROCEDURES FOR PERSONNEL RECORDS

Subpart A—General Provisions

Sec.

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297.104 Types of records.
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297.501 Exemptions.

Authority: Sec. 3, Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

Subpart A—General Provisions

§ 297.101 Purpose and scope.

This part sets forth the regulations of the U.S. Office of Personnel Management (the Office) to govern the maintenance, protection, disclosure, and amendment of records within the systems of records as defned by the Privacy Act of 1974 (5 U.S.C. 552a), Pub. L. 93–579.

§ 297.102 Definitions.

In this part, the terms "agency," "individual," "maintain," "record," "statistical records," and "systems of records" have the same meanings as defined in the Privacy Act, 5 U.S.C. 552a. In addition:

"Access" means providing a copy of a record to, or allowing review of the original record by, the data subject or the data subject's authorized representative, parent, or legal guardian;

"Act" means the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a, as amended;

"Agency" means any department or independent establishment in the Executive Branch of the Federal Government, including a Government corporation, of Government-controlled corporation, except those specifically excluded from the Office recordkeeping requirements by statute, this title, or formal agreement between the Office and the agency.

"Amendment" means the correction, addition, deletion, or destruction of a record or specific portions of a record;

"Data subject" means the individual to whom the information pertains and by whose name or other individual identifier the information is retrieved;

"Disclosure" means providing personal review of a record, or a copy thereof, to someone other than the data subject or the data subject's authorized representative, parent, or legal guardian;

"Office" means the U.S. Office of Personnel Management;

"Personnel record" means any record concerning an individual which is maintained and used in the personnel management or personnel policy-making process; and

"System manager" means the Office or agency official, designated by the head of the agency, who has the authority to decide Privacy Act matters relative to each system of records maintained by the Office.

§ 297.103 Designations of authority by system manager.

The responsible Office system manager having jurisdiction over a system of records may designate in writing an Office employee to evaluate and issue the Office's decision on Privacy Act matters relating to either internal, central, or Governmentwide systems of records.

§ 297.104 Types of records.

The Office manages three generic types of personnel records systems:

(a) Internal systems of records are under the Office's physical control and are established and maintained by the Office solely on its own employees and, when appropriate, on others in contact with the Office regarding matters within its authority.

(b) Centralized systems of personnel records are physically established and maintained by the Office with regard to most current and former Federal employees and some applicants for Federal employment.

(c) Governmentwide systems of personnel records are maintained by the Office, and through Office delegations of authority, by Federal agencies with regard to their own employees or applicants for employment. Although they are Office records, they are in the physical custody of those agencies. Though in the physical custody of agencies, the Office retains authority under its record management authority and under the Privacy Act to decide appeals of initial agency determinations regarding access to and amendment of material in these systems.

§ 297.105 Agency and Office responsibilities for systems of records and applicability of the regulations.

(a) These regulations apply to processing requests from both current and former Office employees for records contained in internal, central, and Governmentwide systems of records managed by the Office.

(b) Agencies are solely and totally responsible for processing requests regarding records maintained in their internal systems of records. Agency regulations, and not these Office regulations, govern the implementation of the Privacy Act for agency internal systems; there is no right of appeal to the Office from an agency's determination regarding its internal agency records.

(c) For records maintained in the Office's central systems of records, the data subject should contact the appropriate Office system manager concerning Privacy Act matters. These regulations will apply to inquiries regarding records located in the central systems of records.

(d) For records maintained within the Office's Governmentwide systems of records, each agency is responsible, unless specifically excepted by the Office, for responding to initial Privacy Act access and amendment requests from its own current employees. For records in Office Governmentwide systems, including those in Official Personnel Folders, Employee Performance Folders, and Employee Medical Folders, the Office is responsible for responding to initial Privacy Act access and amendment requests from former Federal employees.

(e) The procedures in this part apply to all such requests. The procedures in this part also apply to appeals from an agency initial determination regarding access to or amendment of records contained in the Office's Governmentwide systems of records.

(f) The Office follows the procedures in this part when—

(1) Processing initial requests regarding access to or amendment of records by its own employees and others that the Office is maintaining information on in its systems of records, including requests from former employees of an agency whose records properly reside in an Office Governmentwide system of records.

(2) Processing Privacy Act appeals regarding access to and amendment of records generated by another Federal agency, but which are contained in the Office's Governmentwide systems of records, after an agency has issued the initial decision.

(3) Processing initial requests and appeals concerning access to and amendment of records contained in the central systems of records.

(g) For requests concerning records and material of another agency that are in the custody of the Office, but not under its control or ownership, the Office reserves the right to either refer the request to the agency primarily responsible for the material or to notify the individual of the proper agency that should be contacted.

§ 297.106 Contact point for Privacy Act matters.

To determine what records the Office maintains in its system of records, requesters must write to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415. Using the Office's response, requesters can contact the particular system manager indicated in the Office's notices of its systems published in the **Federal Register** for further assistance in determining if the Office maintains information pertaining to them.

Subpart B—Request for Access

§ 297.201 General provisions.

(a) Individual's requesting access to records pertaining to them that are maintained in a system of records should submit a written request to the appropriate system manager and state that the request is being made pursuant to the Privacy Act of 1974.

(b) The Office or agency will require proof of identity from a requester. The Office or agency reserves the right to determine the adequacy of any such proof. The general identifying items the Office will require a requester to provide when a request is made to the Office are—

(1) Full name, signature, and home address;

(2) Social security number [for systems of records that include this identifier];

(3) Current or last place and dates of Federal employment, when appropriate and,

(4) Date and place of birth.

(c) An individual may be represented by another when requesting access to records.

§ 297.202 Methods of access.

(a) The methods for allowing access to records, when such access has been granted by the Office or agency, are:

(1) Inspection in person in the designated office during the hours specified by the Office or agency; or

(2) Transfer of records at the option of the Office or agency to another more convenient Federal facility.

(b) Generally, Office of Personnel Management offices will not furnish certified copies of records. When copies are to be furnished, they may be provided as determined by the Office and may require payment of any fee levied in accordance with the Office's established fee schedule.

(c) When the requester seeks to obtain original documentation, the Office reserves the right to limit the request to copies of the original records. Original records should be made available for review only in the presence of the system manager or designee. An agency should consult with the Office when it receives a request for original documentation. Section 2701(a) of title 18 of the United States Code makes it a crime to conceal, mutilate, obliterate, or destroy any record filed in a public office, or to attempt to do so.

§ 297.203 Access by the parent of a minor or by the legal guardian of an individual declared to be incompetent.

(a) A parent, legal guardian, or custodian of a minor, upon presentation of suitable personal identification, may access on behalf of a minor any record pertaining to the minor in a system of records maintained by the Office.

(b) A legal guardian, upon presentation of documentation establishing guardianship, may access on behalf of an individual declared to be incompetent by a court of competent jurisdiction, any record pertaining to that individual in a system of records maintained by the Office.

(c) Minors are not precluded from exercising personally those rights provided them by the Privacy Act.

§ 297.204 Access by the representative of the data subject.

A record may be disclosed to a representative of the individual to whom the record pertains after the system manager receives written authorization from the individual who is the subject of the record.

§ 297.205 Access to medical records.

When a request for access involves medical or psychological records that the system manager believes requires special handling, the requester should be advised that the material will be provided only to a physician designated by the data subject. Upon receipt of the designation and upon verification of the physician's identity, the records will be made available to the physician, who will have full authority to disclose those records to the data subject when appropriate.

§ 297.206 Fees charged by the Office.

(a) No fees will be charged for search and review time expended by the Office to produce a record, or for making a photostatic copy of the record, or for having it personally reviewed by the data subject, when a record is retrieved from a system of records pertaining to that data subject. Additional copies provided may be charged under the Office's established fee schedule.

(b) When the fees chargeable under this section will amount to more than $25, the requester will be notified and payment of fees may be required before the records are provided.

(c) Remittance should be made by either a personal check, bank draft, or a money order that is made payable to the U.S. Office of Personnel Management and addressed to the appropriate system manager.

§ 297.207 Denials of access and appeals with respect to such denials.

(a) If an access request is denied, the Office or agency response will be in writing and will include a statement of the reasons for the denial and the procedures available to appeal the denial, including the name, position title, and address of the Office official responsible for the review.

(b) Nothing in this part should be construed to entitle a data subject the right to access any information compiled in reasonable anticipation of a civil action or proceeding.

(c) For denials of access made under this subpart, the following procedures apply:

(1) For initial denials made by an agency, when the record is maintained in an Office Governmentwide system of records, a request for adminstrative review should be made only to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(2) For denials initially made by an Office official, when a record is maintained in an internal or central system of records, a request for administrative review should be made to the Information and Privacy Appeals Counsel, Office of the General Counsel, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(3) Any administrative review decision that either partially or fully supports the initial decision and denies access to the material the individual originally sought should state the requester's right to seek judicial review of the final administrative decision.

§ 297.208 Judicial review.

Upon receipt of notification that the denial of access has been upheld on administrative review, the requester has the right to judicial review of the decision for up to 2 years from the date on which the cause of action arose. Judicial review may be sought in the district court of the United States in the district in which—

(a) The requester resides;

(b) The requester has his or her principal place of business; or

(c) The agency records are situated; or it may be sought in the district court of the District of Columbia.

Subpart C—Amendment of Records

§ 297.301 General provisions.

(a) Individuals may request, in writing, the amendment of their records maintained in an Office system of records by contacting the appropriate system manager. The Office or agency will require proof of identity from a requester. The Office or agency reserves the right to determine the adequacy of any such proof. The general identifying items the Office will require a requester to provide when a request is made to the Office are—

(1) Full name, signature, and home address;

(2) Social security number (for systems of records that include this identifier);

(3) Current or last place and dates of Federal employment, when appropriate; and

(4) Date and place of birth.

(b) An individual may be represented by another party when requesting amendment of records.

(c) A request for amendment should include the following:

(1) The precise identification of the records to be amended;

(2) The identification of the specific material to be deleted, added, or changed; and

(3) A statement of the reasons for the request, including all available material substantiating the request.

(d) Requests for amendment of records should include the words "PRIVACY ACT AMENDMENT REQUEST" in capital letters on both the envelope and at the top of the request letter.

(e) A request for administrative review of an agency denial to amend a record in the Office's systems of records should be addressed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(f) A request for administrative review of a denial to amend a record by an Office official should be addressed to the Information and Privacy Appeals Counsel, Office of the General Counsel, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(g) The burden of proof demonstrating the appropriateness of the requested amendment rests with the requester; and, the requester must provide relevant and convincing evidence in support of the request.

§ 297.302 Time limits.

The system manager should acknowledge receipt of an amendment request within 10 working days and issue a determination as soon as practicable. This timeframe begins when the request is received by the proper Office or agency official.

§ 297.303 Applicability of amendment provisions.

(a) The amendment procedures are not intended to allow a challenge to material that records an event that actually occurred nor are they designed to permit a collateral attack upon that which has been or could have been the subject of a judicial, quasi-judicial, or administrative proceeding. The amendment procedures are also not designed to change opinions in records pertaining to the individual.

(b) The amendment procedures apply to situations when an occurrence that is documented was challenged through an established judicial, quasi-judicial, or administrative procedure and found to be inaccurately described; when the

document is not identical to the individual's copy; or when the document is not created in accordance with the applicable recordkeeping requirements. (For example, the amendment provisions are not designed to allow a challenge to the merits of an agency adverse action that is documented in an individual's Official Personnel Folder.)

§ 297.304 Approval of requests to amend records.

(a) If the system manager determines that amendment of a record is appropriate, the system manager will take the necessary steps to have the necessary changes made and will see that the individual receives a copy of the amended record.

(b) When practicable and appropriate, the system manager will advise all prior recipients of the fact that an amendment of a record has been made.

§ 297.305 Denial of requests to amend records.

(a) If the Office or agency system manager decides not to amend the record in the manner sought, the requester should be notified in writing of the reasons for the denial.

(b) The decision letter should also include the requester's right to appeal the denial and the procedures for appealing the denial to the appropriate official.

§ 297.306 Appeal of a denial of a request to amend a record.

(a) An individual who disagrees with an initial denial to amend a record may file a written appeal of that denial to the appropriate official. In submitting an appeal, the individual should provide a copy of the original request for amendment, a copy of the initial denial decision, and a statement of the specific reasons why the initial denial is believed to be in error. Any appeal should be submitted to the official designated in the initial decision letter. The appeal should include the words "PRIVACY ACT APPEAL" in capital letters on the envelope and at the top of the letter of appeal.

(b) The reviewing official should complete the review and make a final determination in writing no later than 30 working days from the date on which the appeal is received. When circumstances warrant, this timeframe may be extended.

(c) If the Office grants the appeal, it will take the necessary steps either to amend the record itself or to require the originating agency to amend the record. When appropriate and possible, prior recipients of the record should be notified of the Office's action.

(d) The Office reserves the right to hold in abeyance any Privacy Act appeal concerning a record when an individual is involved in challenging an action involving that record in another administrative, judicial, or quasi-judicial forum. At the conclusion of such a challenge, the individual can resubmit the appeal.

(e) If the Office denies the appeal, it will include in the decision letter notification of the appellant's right to judicial review.

§ 297.307 Statement of disagreement.

(a) Upon receipt of a final administrative determination denying a request to amend a record, the requester may file a concise statement of disagreement. Such a statement should be filed with the appropriate system manager and should include the reasons why the requester believes the decision to be incorrect.

(b) The statement of disagreement should be maintained with the record to be amended and any disclosure of the record must include a copy of the statement of disagreement.

(c) When practicable and appropriate, the system manager should provide a copy of the statement of disagreement to any individual or agency to whom the record was previously disclosed as noted by the disclosure accounting.

§ 297.308 Judicial review.

Upon receipt of notification that the denial to amend a record has been upheld on administrative review, the requester has the right to judicial review of the decision for up to 2 years from the date the cause of action arose. Judicial review may be sought in the district court of the United States in the district in which—

(a) The requester resides;

(b) The requester has his or her principal place of business; or

(c) The agency records are situated; or it may be sought in the district court of the District of Columbia.

Subpart D—Disclosure of Records

§ 297.401 Conditions of disclosure.

An official or employee of the Office or agency should not disclose a record retrieved from a Governmentwide system of records to any person, another agency, or other entity without the express written consent of the subject individual unless disclosure is—

(a) To officers or employees of the Office who have a need for the information in the performance of their duties.

(b) Required by the provisions of the Freedom of Information Act.

(c) For a routine use as published in the **Federal Register**.

(d) To the Bureau of the Census for uses pursuant to Title 13 of the United States Code.

(e)(1) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record. The record will be transferred in a form that is not individually identifiable. The written statement should include as a minimum:

(i) A statement of the purpose for requesting the records; and

(ii) Certification that the records will be used only for statistical purposes.

(2) These written statements should be maintained as records. In addition to deleting personal identifying information from records released for statistical purposes, the system manager will reasonably ensure that the identity of the individual cannot be deduced by combining various statistical records.

(f) To the National Archives of the United States as a record that has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or his or her designee to determine whether the record has such value.

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality or his designated representative has made a written request to the Office or agency that maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought.

(h) To a person showing compelling circumstances affecting the health and safety of an individual, not necessarily the individual to whom the record pertains. Upon such disclosure, a notification should be sent to the last known address of the subject individual.

(i) To the Congress or to a Congressional committee, subcommittee, or joint committee to the extent that the subject matter falls within its established jurisdiction.

(j) To the Comptroller General or any authorized representatives of the Comptroller General in the course of the performance of the duties of the General Accounting Office.

(k) Pursuant to the order of a court of competent jurisdiction.

(l) To a consumer reporting agency in accordance with section 3711 (f) of Title 31 of the United States Code.

§ 297.402 Disclosure pursuant to a compulsory legal process served on the Office.

(a) The Office may disclose, without prior consent of the data subject, specified information from a system of records whenever such disclosure is pursuant to an order signed by the appropriate official of a court of competent jurisdiction or quasi-judicial agency. In this subpart, a court of competent jurisdiction includes the judicial system of a state, territory, or possession of the United States.

(b) Notice of the order will be provided to the data subject by the Office as soon as practicable after service of the order. The notice should be mailed to the last known address of the individual and state the name and number of the case or proceeding, and the nature of the information sought.

(c) Before complying or refusing to comply with the order, an official with authority to disclose records under this subpart should consult legal counsel to ensure that the response is appropriate.

§ 297.403 Disclosure pursuant to a subpoena served on the Office.

(a) The Office may disclose, without prior consent of the individual, specified information from a system of records whenever such disclosure is pursuant to a subpoena signed by the appropriate official and issued in connection with a judicial or administrative proceeding.

(b) Before responding to a subpoena, an official with authority to disclose records under this part, should consult, as appropriate, with legal counsel to ensure that—

(1) The requested materials are relevant to the subject matter of the related judicial or administrative proceeding;

(2) Motion is made to quash or modify a subpoena that is unreasonable or oppressive;

(3) Motion is made for a protective order when necessary to restrict the use or disclosure of any information furnished for purposes other than those of the involved proceeding; or

(4) Request is made for an extension of the time allowed for response, if necessary.

(c) If a subpoena for production of documents also requests appearance of an Office employee, the response should be to furnish certified copies of the appropriate records.

(d) If oral testimony is requested by the subpoena, an explanation, which sets forth the testimony desired, must be furnished to the Office system manager. The individual who has been subpoenaed to testify should consult with legal counsel to determine the matters about which the individual may properly testify.

(e) In all situations concerning a subpoena or other demand for an employee of the Office to produce any material or testimony concerning the records that are subject to the subpoena, that are contained in the Office's systems of records, and that are acquired as part of the employee's official duties, the employee should not provide the information without prior approval of the appropriate Office official.

(f) If it is determined that the information should not be provided, the individual subpoenaed should respectfully decline to comply with the demand based on the instructions from the appropriate Office official.

(g) When the records for an individual residing in an Office system of records are subpoenaed, the disclosing Office official should notify the individual whose records are sought of the subpoena's issuance. Notice should be mailed to the last known address of the individual and contain the following information: the date the subpoena is returnable; the name and number of the case or proceeding; and the nature of the record sought. Such notice should be accomplished within 10 working days after receipt of the subpoena or as soon as practicable. Notice of the issuance of an ex parte order or subpoena is not required if the system of records has been exempted from the notice requirement of 5 U.S.C. 552a(e)(8) pursuant to 5 U.S.C. 552a(j) by a Notice of Exemption published in the **Federal Register**.

§ 297.404 Accounting of disclosure.

(a) The Office or agency will maintain a record of disclosures in cases where records about the individual are disclosed from an Office system of records except—

(1) When the disclosure is made pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552); or

(2) When the disclosure is made to those officers and employees of the Office or agency who have a need for the record in the performance of their duties.

(b) This accounting of the disclosures will be retained for at least 5 years or for the life of the record, whichever is longer, and will contain the following information:

(1) A brief description of the record disclosed;

(2) The date, nature, and purpose for the disclosure; and

(3) The name and address of the purpose, agency, or other entity to whom the disclosure is made.

(c) Except for the accounting of disclosure made to agencies, individuals, or entities in law enforcement activities or disclosures made from the Office's exempt systems of records, the accounting of disclosures will be made available to the data subject upon request in accordance with the access procedures of this part.

Subpart E—Exempt Records

§ 297.501 Exemptions.

(a) Several of the Office's internal, central, and Governmentwide systems of records contain information for which exemptions appearing at 5 U.S.C. 552a(k) (1), (2), (3), (5), and (6) may be claimed. The systems of records for which the exemptions are claimed, the specific exemptions determined to be necessary and proper with respect to these systems of records, the records exempted, the provisions of the act from which they are exempted, and the justifications for the exemptions are set forth below.

(b) *Specific exemptions*— (1) *Inspector General Investigations Case File Records (OPM/CENTRAL–4).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are as follows:

(i) Inspector General investigations may contain properly classified information that pertains to national defense and foreign policy obtained from other systems or another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d).

(ii) Inspector General investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2); e.g., investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of such records under 5 U.S.C. 552(a)(3) and (d).

(iii) Inspector General investigations may contain information obtained from another system or Federal agency that relates to providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records under 5 U.S.C. 552a(d).

(iv) Inspector General case files may contain information that, by statute, is required to be maintained and used solely as a statistical record. Application of exemption (k)(4) may be necessary to ensure compliance with such a statutory mandate.

(v) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). This exemption is claimed because this system contains investigatory material that if disclosed may reveal the identity of a source who furnished information to the Government under an express promise that the source's identity would be held in confidence or, prior to September 27, 1975, under an implied promise. The application of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to or amendment of the records, or access to the accounting of disclosures of the record.

(vi) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d) relating to access to and amendment of records by the data subject. This exemption is claimed because portions of a case file record may relate to testing and examining material used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(vii) Inspector General case files may contain evaluation material used to determine potential for promotion in the armed services. Application of exemption (k)(7) may be necessary, but only to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(2) *Administrative Law Judge Applicant Records (OPM/CENTRAL–6).* (i) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirement of 5 U.S.C. 552(c)(3) and (d). The exemptions are claimed because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor promises of confidentialty should the data subject request access to the accounting of disclosures of the record, or access to or amendment of the record.

(ii) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing and examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examing process.

(3) *Litigation and Claims Records (OPM/CENTRAL–7).* (i) When litigation or claim cases occur, information from other existing systems of records may be incorporated into the case file. This information may be material for which exemptions have been claimed by the Office in this section. To the extent that such exempt material is incorporated into a litigation or claim case file, the appropriate exemption (5 U.S.C. 552a(k)(1), (2), (3), (4), (5), (6), or (7)) shall also apply to the material as it appears in this system. The exemptions will be only from those provisions of the Act that were claimed for the systems from which the records originated.

(ii) During the course of litigation or claims cases, it may be necessary to conduct investigations to develop information and evidence relevant to the case. These investigative records may include material meeting the criteria stated in 5 U.S.C. 552a(k)(1), (2), (3), (4), (5), (6), and (7). Such material is exempt from the requirement of 5 U.S.C. 552a(c)(3) and (d). These provisions of the Act relate to making accounting of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are:

(A) Such investigations may contain properly classified information that pertains to national defense and foreign policy obtained from another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of suh classified information under 5 U.S.C 552a(d).

(B) Such investigations may contain investigatory material compiled for law enforcement purposes othe than material within the scope of 5 U.S.C. 552a(j)(2), e.g., administration of the merit system, obtained from another Federal agency. All information about individuals in these records that meets the criteria of 5 U.S.C 552a(k)(2) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of those records.

(C) Such investigations may contain information obtained from another agency that relates to providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. All information about individuals in these records that meets the criteria of 5 U.S.C. 552a(k)(3) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to or amendment of records by the data subject. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records.

(D) Such investigations may contain information that, by statute, is required to be maintained and used solely as a statistical record. Application of exemption (k)(4) may be necessary to ensure compliance with such a statutory mandate.

(E) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These exemptions are claimed because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should the data subject request access to the

accounting of disclosure, or access to or amendment of the record, that would reveal the identity of a confidential source.

(F) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment by the data subject of this information would compromise the objectivity and fairness of the testing or examining process.

(G) Such investigations may contain evaluation material used to determine potential for promotion in the armed services. Application of exemption (k)(7) may be necessary, but only to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(4) *Privacy Act/Freedom of Information Case Records (OPM/CENTRAL–8).* In this subpart, the Office has claimed exemptions for its other systems of records where it felt such exemptions are appropriate and necessary. These exemptions are claimed under 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6) and (7). During the processing of a Privacy Act/Freedom of Information Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests) exempt materials from those other systems may in turn become part of the case record in this system. To the extent that copies of exempt records from those other systems are entered into this system, the Office hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary system of which they are a part.

(5) *Personnel Investigations Records (OPM/CENTRAL–9).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are as follows:

(i) Personnel investigations may contain properly classified information which pertains to national defense and foreign policy obtained from another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d).

(ii) Personnel investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2); e.g., investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amended of such records under 5 U.S.C. 552a (c)(3) and (d).

(iii) Personnel investigations may contain information obtained from another Federal agency that relates to providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records under 5 U.S.C. 552a(d).

(iv) Personnel investigations may contain information that, by statute, is required to be maintained and used solely as a statistical record. Application of exemption (k)(4) may be necessary to ensure compliance with such a statutory mandate.

(v) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These exemptions are claimed because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the applicability of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to or amendment of the record, or access to the accounting of disclosures of the record.

(vi) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(vii) Personnel Investigations may contain evaluation material used to determine potential for promotion in the armed services. Application of exemption (k)(7) may be necessary, but only to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(6) *Presidential Management Intern Program Records (OPM/CENTRAL–11).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(7) *Recruiting, Examining, and Placement Records (OPM/GOVT–5).* (i) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. These exemptions are claimed because this system contains investigative material compiled solely for determining the appropriateness of a request for approval of an objection to an eligible's qualification for employment in the Federal service. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor promises of confidentiality should the data subject

request access to the accounting of disclosures of the record, or access to or amendment of the record.

(ii) All information in these records that meets the criteria stated in 5 U.S.C. 552a(K)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to an amendment of records by the subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(8) *Personnel Research Test Validation Records (OPM/GOVT–6).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(c) The Office also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request. The Office may refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

[FR Doc. 88–1508 Filed 1–25–88; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–NM–135–AD; Amdt. 39–5836]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires the inspection for cracking, and repair or replacement, as necessary, of the pylon midspar attach fitting horizontal clevis to prevent possible separation of the pylon and engine from the wing. This amendment increases the repetitive inspection interval from 10,000 flight hours to 12,000 flight hours or 4,000 landings, whichever occurs first. In addition, this amendment deletes certain airplanes from applicability of the AD. This action is prompted by additional service experience and further assessment which indicates that these relieving actions will not have an adverse effect on safety.

DATE: Effective March 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 Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to revise AD 87–04–13, Amendment 39–5546 (52 FR 3420; February 4, 1987), applicable to Boeing Model 747 series airplanes, to increase the interval for repetitive inspections of the pylon midspar attach fitting horizontal clevis from 10,000 flight hours to 12,000 flight hours or 4,000 landings, whichever occurs first, and to delete certain airplanes from the applicability of the AD, was published in the **Federal Register** on October 20, 1987 (52 FR 38934). The period for public comment closed on December 18, 1987.

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, the Air Transport Association (ATA) of America on behalf of its members, expressed support for the proposed revision to AD 87–04–13.

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 following rule.

It is estimated that 160 airplanes of U.S. registry will be affected by this AD. Since this action will decrease the number of airplanes affected by the AD and increase the repetitive inspection interval, there is no additional cost impact to U.S. operators.

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 impact, either positive or negative, on a substantial number of small entities because few, if any, Model 747 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 amending AD 87–04–13, Amendment 39–5546 (52 FR 3540; February 4, 1987), to revise the applicability statement and paragraph A. as follows:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747–54–2118, Revision 1, dated May 21, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracking of engine pylon midspar attach fittings, accomplish the following:

A. Within 5,000 flight hours after the effective date of this AD (March 13, 1987) or prior to the accumulation of 20,000 flight hours, whichever occurs later, unless accomplished within the last 5,000 flight hours, and at intervals thereafter not to exceed 12,000 flight hours or 4,000 landings, whichever occurs first, perform an ultrasonic inspection for cracks initiating at the aft-most two fastener holes in both pylon midspar fittings on the inboard nacelle pylons on airplanes listed in Groups 1 through 5, and on the outboard nacelle pylons on airplanes listed in Group 1, in accordance with Boeing Service Bulletin 747–54–2118, dated July 25, 1986, or later FAA approved revisions.

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

This amendment becomes effective March 1, 1988.

Issued in Seattle, Washington, on January 13, 1988.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 88-1437 Filed 1-25-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWA-9]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several Federal Airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of New York (52 FR 26485). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process."

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under the order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) requires an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileage on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 71.123 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 alters the descriptions of VOR Federal Airways V-1, V-3, V-14, V-16, V-31, V-33, and V-34 located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (52 FR 38909 and 42272) is further 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; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-1 [Amended]

By removing the words "to Coyle," and substituting the words "Coyle; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; Deer Park, NY; Madison, CT; to Hartford, CT;"

V-3 [Amended]

By removing the words "Linden, VA, Shawnee, VA; Martinsburg, WV; Westminster, MD; Modena, PA;" and substituting the words "INT Gordonsville 331° and Martinsburg, WV, 216° radials; Martinsburg; Westminster, MD; INT Westminster 048° and Modena, PA, 258° radials; Modena, PA;" and also by removing the words "INT Hartford 044° and Boston, MA, 251° radials;" and substituting the words "INT Hartford 084° and Boston, MA, 224° radials; Boston;"

V-14 [Amended]

By removing the words "INT Gardner 195° and Norwich, CT, 351° radials; Norwich," and substituting the words "to Norwich, CT."

V-16 [Amended]

By removing the words "Kennedy, NY;" and substituting the words "INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy;"

V-31 [Amended]

By removing the words "Harrisburg, PA;" and substituting the words "INT Baltimore 004° and Harrisburg, PA, 147° radials; Harrisburg;"

V-33 [Amended]

By removing the words "Harrisburg, PA;" and substituting the words "INT Baltimore 004° and Harrisburg, PA, 147° radials; Harrisburg;"

V-34 [Revised]

From Rochester; Hancock, NY; INT Hancock 091° and Delancey, NY, 119° radials; INT Delancey 119° and Pawling, NY, 281° radials; Pawling; Madison, CT; INT Madison 142° and Sandy Point, RI, 269° radials; Sandy Point; to Nantucket, MA. The airspace within R-5202 and R-4105 is excluded during times of use.

Issued in Washington, DC, on January 7, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-1435 Filed 1-25-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWA-10]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several Federal Airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 14, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of New York (52 FR 26351). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process."

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities.

Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routes were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestions. Section 71.123 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 alters the descriptions of VOR Federal Airways V-39, V-44 and V-58 located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-39 [Amended]

By removing the words "Linden, VA; Shawnee, VA; Martinsburg, WV;" and substituting the words "INT Gordonsville 331° and Martinsburg, WV, 212° radials; Martinsburg;" and also by removing the words "Carmel, NY. From Chester, MA;" and substituting the words "Carmel, NY; INT Carmel 045° and Bridgeport, CT, 343° radials; INT Bridgeport 343° and Chester, MA, 223° radials; Chester;"

V-44 [Amended]

By removing the words "Baltimore, MD; INT Baltimore 093° and Kenton, DE, 262° radials; Kenton; INT Kenton 086° and Atlantic City, NJ, 236° radials; Atlantic City; INT Atlantic City 048° and Deer Park, NJ, 209° radials; to Deer Park." and substituting the words "INT Martinsburg 094° and Baltimore, MD, 300° radials; Baltimore; INT Baltimore 122° and Sea Isle, NJ, 267° radials; Sea Isle; INT Sea Isle 040° and Deer Park, NY, 209° radials; Deer Park; INT Deer Park 041° and Bridgeport, CT, 133° radials; Bridgeport; INT Bridgeport 324° and Pawling, NY, 160° radials; Pawling, NY; INT Pawling 342° and Albany, NY, 181° radials; to Albany."

V-58 [Amended]

By removing the words "INT Lake Henry 078° and Kingston, NY, 274° radials; Kingston; INT Kingston 100° and Hartford, CT, 268° radials; Hartford; INT Hartford 130° and Providence, RI, 212° radials." and substituting the words "INT Lake Henry 078° and Kingston, NY, 270° radials; Kingston; INT

Kingston 095° and Hartford, CT, 269° radials; Hartford; Groton, CT; Sandy Point, RI; to Nantucket, MA: The airspace within R-4105 is excluded during times of use."

Issued in Washington, DC, on January 7, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Divison.

[FR Doc. 88-1436-Filed 1-25-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AWA-11]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several Federal Airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of New York (52 FR 26486). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process." People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities.

Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and for that reason, a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 71.123 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 alters the descriptions of VOR Federal Airways V-91, V-93, V-99 and V-106 located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP. Portions of Phase II were

implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (52 FR 38912 and 39904) is further 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; E.O. 10856; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-91 [Amended]

By removing the words "INT Calverton 332° and Pawling, NY, 139° radials; Pawling; INT Pawling 342° and Albany, NY, 181° radials; Albany;" and substituting the words "Bridgeport, CT; Albany, NY;"

V-93 [Amended]

By removing the words "INT Baltimore 004° and Lancaster, PA 204° radials;" and substituting the words "INT Baltimore 004° and Lancaster, PA, 214° radials;" and also by removing the words "INT Lake Henry 056° and Pawling, NY, 274° radials; Pawling;" and substituting the words "INT Lake Henry 078° and Kingston, NY, 270° radials; Kingston; Pawling, NY;"

V-99 [Amended]

From LaGuardia, NY, via INT LaGuardia 043° and Hartford, CT, 245° radials; Hartford; INT Hartford 040° and Boston, MA, 252° radials.

V-106 [Amended]

By removing the words "INT Lake Henry 056° and Pawling, NY, 274° radials; Pawling; Barnes, MA; Gardner, MA;" and substituting the words "INT Lake Henry 068° and Pawling, NY, 281° radials; Pawling; Barnes, MA; Gardner, MA;"

Issued in Washington, DC, on January 13, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-1431 Filed 1-25-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWA-12]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several Federal Airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Greak Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of New York (52 FR 26490). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process." People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities.

Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General

Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and for that reason, a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 71.123 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 alters the descriptions of VOR Federal Airways V–123, V–130, V–139 and V–143 located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP. Portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA 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 Flexbility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–123 [Amended]

By removing the words "INT Woodstown 042° and Robbinsville, NJ, 239° radials; Robbinsville;" and substituting the words "Robbinsville, NJ;" and also by removing the words "INT LaGuardia 034° and Carmel, NY, 188° radials; Carmel." and substituting the words "INT LaGuardia 032° and Carmel, NY, 157° radials; Carmel; INT Carmel 344° and Kingston, NY 129° radials; Kingtson; Albany, NY; Cambridge, NY; to Glens Falls, NY."

V–130 [Revised]

From Albany, NY; Bradley, CT; Norwich, CT; INT Norwich 114° and Martha's Vineyard, MA, 267° radials; to Martha's Vineyard.

V–139 [Amended]

By removing the words "INT Hampton 059° and Providence, RI, 212° radials; Providence; INT Providence 043° and Kennebunk, ME, 180° radials; Kennebunk." and substituting the words "Providence, RI; INT Providence 079° and Sandy Point, RI, 031° radials; INT Sandy Point 031° and Kennebunk, ME, 180° radials; to Kennebunk." and also by removing the words "and the airspace within R–6604 are excluded." and substituting the words "and the airspace within R–5202 and R–6604 are excluded."

V–143 [Amended]

By removing the words "Shawnee, VA; Martinsburg, WV;" and substituting the words "INT Montebello 031° and Martinsburg, WV, 216° radials; Martinsburg;"

Issued in Washington, DC, on January 13, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88–1428 Filed 1–25–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–13]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendent alters the descriptions of several Federal Airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14,

1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 URC, March 10, 1988.

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

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of New York (52 FR 26487). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process." People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities.

Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and for that reason, a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 71.123 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 alters the descriptions of VOR Federal Airways V–146, V–151, V–153 and V–157 located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This ammendment is the final segment of Phase II of the EECP. Portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 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 authorioty 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.

§71.123 [Amended]

2. Section 71.123 is amended as follows:

V-146 [Amended]

By removing the words "From Putnam, CT;" and substituting the words "From Albany, NY; Chester, MA; Barnes, MA; Putnam, CT;"

V-151 [Amended]

By removing the words "Providence; Gardner, MA;" and substituting the words "Providence; Putnam, CT; Gardner, MA;"

V-153 [Revised]

From Lake Henry, PA; Georgetown, NY; Syracuse, NY.

V-157 [Amended]

By removing the words "Dupont, DE; Robbinsville, NJ; Colts Neck, NJ;" and substituting the words "Woodstown, NJ; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 209° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials;"

Issued in Washington, DC, on January 13, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-1429 Filed 1-25-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWA-14]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several Federal Airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of New York (52 FR 26492). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process." People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities.

Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of these studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and for that reason, a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis in not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow

has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 71.123 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 alters the descriptions of VOR Federal Airways V–162, V–167, V–188, V–203 and V–205 located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP. Portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (52 FR 27328, 38748, 38751 and 39904) is further 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; E. O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–162 [Amended]

By removing the words "From INT Martinsburg, WV, 130° and Harrisburg, PA, 201° radials;" and substituting the words "From INT Martinsburg, WV, 058° and Harrisburg, PA, 191° radials;" and also by removing the words "Huguenot, NY; INT Huguenot 032° and Pawling, NY, 274° radials; Pawling." and substituting the words "to Huguenot, NY."

V–167 [Amended]

By removing the words "From Kingston, NY; INT Kingston 100° and Hartford, CT, 268° radials; Hartford, CT;" and substituting the words "From Hancock, NY; INT Hancock 117° and Kingston, NY, 270° radials; Kingston; INT Kingston 095° and Hartford, CT, 269° radials; Hartford;"

V–188 [Amended]

By removing the words "to Carmel." and substituting the words "Carmel; INT Carmel 078° and Groton, CT, 276° radials; to Groton."

V–203 [Revised]

From Albany, NY; Saranac Lake, NY; Massena, NY; INT Massena 045° and Montreal, Canada, 188° radials; Montreal. The airspace within Canada is excluded.

V–205 [Revised]

From INT Sparta, NJ, 300° and Huguenot, NY, 196° radials; Huguenot; INT Huguenot 008° and Lake Henry, PA, 068° radials; INT Lake Henry 068° and Bradley, CT, 266° radials; Bradley; to Putnam, CT.

Issued in Washington, DC, on January 13, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88–1430 Filed 1–25–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 87–AWA–3]

Alteration of Jet Routes; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several jet routes located in the vicinity of New York. These jet routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 6, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of several jet routes located in the vicinity of New York (52 FR 25243). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and

complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process."

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of Jet Routes J-37, J-40, J-42, J-48, J-55, J-60 and J-62 located in the vicinity of New York. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 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 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as amended (52 FR 38913) is further amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 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.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-37 [Amended]

By removing the words "Kenton, DE; Coyle, NJ; Kennedy, NY;" and substituting the words "Brooke, VA; INT Brooke 067° and Coyle, NJ, 226° radials; to Coyle. From Kennedy, NY; Kingston, NY;"

J-40 [Amended]

By removing the words "Richmond, VA; INT Richmond 009° and Gordonsville, VA, 059° radials; INT Gordonsville 059° and DUPONT, DE, 223° radials; to Dupont." and substituting the words "to Richmond, VA;"

J-42 [Amended]

By removing the words "Casanova, VA; INT Casanova 051° and Westminster, MD 080° radials; INT Westminster 080° and

Robbinsville, NJ, 239° radials; Robbinsville; INT Robbinsville 073° and Hampton 223° radials; to Hampton." and substituting the words" Montebello, VA; Gordonsville, VA; Nottingham, MD; INT Nottingham 061° and Woodstown, NJ, 225° radials; Woodstown; Robbinsville, NJ; LaGuardia, NY; INT LaGuardia 043° and Hartford, CT, 236° radials; Hartford; Providence, RI."

J–48 [Amended]

By removing the words "Casanova, VA; to Pulaski, VA." and substituting the words "Casanova, VA; Montebello, VA; to Toccoa, GA."

J–55 [Amended]

By removing the words "Raleigh-Durham, Flat Rock, VA; INT of the Flat Rock 025° and the Gordonsville, VA, 059° radials; INT of the Gordonsville 059° and Sea Isle, NJ, 253° radials; Sea Isle;" and substituting the words "Raleigh-Durham; INT Raleigh-Durham 035° and Hopewell, VA, 234° radials; Hopewell; to INT Hopewell 030° and Nottingham, MD, 174° radials. From Sea Isle, NJ;"

J–60 [Amended]

By removing the words "to Robbinsville, NJ." and substituting the words "to Sparta, NJ."

J–62 [Amended]

By removing the words "From Kennedy, NY, via the INT of Kennedy 080° and the Nantucket, MA, 255° radials; Nantucket;" and substituting the words "From Robbinsville, NJ; Nantucket, MA;"

Issued in Washington, DC, on January 7, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88–1432 Filed 1–25–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 87–AWA–7]

Alteration of Jet Routes; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several jet routes located in the vicinity of New York. These jet routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 8, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of several jet routes located in the vicinity of New York (52 FR 25610). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process."

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the cirteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of Jet Routes J–222, J–225, J–228, J–518, J–573 and J–581 located in the vicinity of New York. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as amended (52 FR 39904) is further amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 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.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–222 [New]

From Robbinsville, NJ; INT Robbinsville 039° and Kennedy, NY, 253° radials; Kennedy; INT Kennedy 022° and Cambridge, NY, 179° radials; Cambridge; to Plattsburgh, NY.

J–225 [New]

From Cedar Lake, NJ; INT Cedar Lake 037° and Kennedy, NY, 232° radials; Kennedy; INT Kennedy 038° and Hartford, CT, 236° radials; Hartford; Putnam, CT; to Boston, MA.

J–228 [Amended]

By removing the words "Lancaster, PA; INT Lancaster 239° and Linden, VA, 042° radials; Linden; INT Linden 234° and Beckley, WV, 070° radials; to Beckley." and substituting the words "to Lancaster, PA."

J–518 [Revised]

From Dryer, OH; Indian Head, PA; to Baltimore, MD.

J–573 [Amended]

By removing the words "From Providence, RI, via INT Providence 045° and Kennebunk, ME, 180° radials; Kennebunk;" and substituting the words "From Kennebunk, ME;"

J–581 [Amended]

By removing the words "From Kennedy, NY, via INT of Kennedy 042° and Putnam, CT, 236° radials; Putnam;" and substituting the words "From Putnam, CT;"

Issued in Washington, DC, on January 7, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88–1434 Filed 1–25–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 87–AWA–8]

Alteration of Jet Route; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Jet Route J–213 located in the vicinity of New York. This jet route is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

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

On July 8, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of J–213 located in the vicinity of New York (52 FR 25609). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

The State of New Jersey Department of Environmental Protection comments were mostly directed at the jet route changes, but were additionally concerned with what impact these jet route changes would have on the flight paths in the lower altitudes. They state that "consideration of the direct and indirect aircraft noise impacts on residential communities should have been factored into the EECP planning process."

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities.

Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the description of Jet Route J-213 located in the vicinity of New York. This route is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is the final segment of Phase II of the EECP, portions of Phase II were implemented on November 19, 1987, and January 14, 1988. Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 75

Aviation safety, Jet routes.

Adoption of the Amendment

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 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.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-213 [New]

From Armel, VA; INT Armel 251° and Beckley, WV, 066° radials; to Beckley.

Issued in Washington, DC, on January 7, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-1433 Filed 1-25-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R, Amdt. No. 7 [1]]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Active Duty Dependents Dental Plan

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule amends Part 199 of Title 32, the Regulation implementing CHAMPUS programs, by adding a new section to implement Chapter 55, Title 10, section 1076a U.S.C., which authorizes the Active Duty

[1] The amendments inadvertently published unnumbered on September 1, 1987 (52 FR 32992) and October 19, 1987 (52 FR 38753) are assigned amendment numbers 5 and 6 respectively.

Dependents Dental Plan. The rule defines the benefits and eligibility requirements, provides for insurance or prepayment contracting for benefit administration and payment, provides for Government and Uniformed Services member sharing in the cost of premiums for the insurance or prepayment contract, defines authorized providers, provides for benefit communications and implementation, establishes alternative delivery systems criteria and requirements, and provides an appeals procedure. Eligibility for the program is limited to Uniformed Services active duty members' dependents residing in the 50 United States, District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Benefits of the program are limited to diagnostic services, oral examinations, scaling deposits from teeth, polishing of teeth, topical application of fluoride to teeth, space maintenance, minor palliative emergency services, amalgam and composite restorations, stainless steel crowns for primary teeth, and dental appliance repairs. Benefits are further limited by the limitations and exclusions established for these benefits by the Director, OCHAMPUS or designee to assure quality of care and appropriate cost constraints. Authorized providers are dentists and dental hygienists practicing within the scope of their licenses.

EFFECTIVE DATE: August 1, 1987.

ADDRESS: Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Joseph C. Rhea, Office of Program Development, OCHAMPUS, telephone (303) 361-3278.

SUPPLEMENTARY INFORMATION: Chapter 55, Title 10, section 1076a U.S.C. provides that "the Secretary of Defense may establish dental benefit plans for spouses and children (as described in section 1072(2)(D) of this title) of members of the uniformed services who are on active duty for a period of more than 30 days. "This provision further requires that enrollment of participants be voluntary and include provisions for premium-sharing between the Department of Defense and members enrolling in the program." The law also specifies that the "member's share of the premium shall be paid by deductions from the basic pay of the member."

Eligibility is further limited by Congressional guidance to dependents of active duty members residing within the continental United States. This limitation was interpreted to include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Two categories of dental benefits are provided: "(1) Diagnostic, oral examination, and preventive services and palliative emergency care; and (2) basic restorative services of amalgam and composite restorations and stainless steel crowns for primary teeth, and dental appliance repairs."

Proposed Rule and Comments

In FR Doc. 87-12288 appearing in the **Federal Register** on May 29, 1987 (52 FR 103), the Office of the Secretary of Defense published for public comment a proposed amendment regarding the implementation of the Active Duty Dependents Dental Plan. We received comments from government agencies, two national associations related to dental care providers, and a dental insurer. We express our appreciation to all commenters for their substantive comments. The following summarizes the comments, suggestions, and the actions taken.

Most commenters felt that the provisions for implementing the two-year enrollment requirement were unduly restrictive with respect to potential termination at the end of an initial enlistment. The two-year enrollment is consistent with Congressional guidance and is deemed essential by the insurer for financial long-term viability of the Dependents Dental Plan. Agreement has been reached on retaining the two-year enrollment requirement, but substituting in § 199.13(c)(3) a more general provision that active duty members are to enroll with the intent of remaining on active duty for at least the two-year period, and in § 199.13(c)(5) a provision that termination from active duty at any time results in termination of enrollment at the end of the month in which active duty ceases. This simplifies the administrative process of enrollment and delegates to the active duty members and their supervisors the responsibility for assuring compliance with the intent of two-year enrollment.

Uniformed Services commenters requested that an exception provision be included, similar to that in CHAMPUS, permitting claims to be processed in the absence of direct verification through DEERS of the dependent's enrolled status. This recommendation was not adopted since, unlike CHAMPUS, the Dependents Dental Plan does not produce a presumption of eligibility based on entitlement of dependents as a result of active duty status of the Uniformed Service member. Some active duty members voluntarily decline enrollment in the Dependents Dental Plan. Premiums paid to the contractor at the beginning of each month of coverage also require a direct verification of eligibility with no presumption of eligibility possible as long as the plan includes the opportunity to voluntarily decline enrollment. Consequently, the suggestion could not be adopted because of its legal and technical infeasibility.

Concern was also expressed by some Uniformed Service commenters with the provision for continuing coverage until the end of the month in which termination of enrollment occurs as a result of termination of active duty status. While it is recognized that other benefits terminate upon termination of active duty status, the standard practice of whole month premium payments in dental insurance and the small amount deducted from the active duty member's pay each month for partial payment of the premium do not provide a cost-effective basis for reimbursement of partial month premium payments. Neither is it reasonable to deny the enrollee the benefit eligibility for the remaining days of the month in which termination from active duty occurs since the individual and the Government must pay for the full month. Therefore, this suggestion was not adopted.

Other comments received concerning eligibility and enrollment were adopted. An implementing instruction includes provisions for disenrollment at the active duty member's election within 90 days following a permanent change of duty station where dependent dental care from a military facility is available. Disenrollment also may occur where the active duty member provides evidence of coverage under another employment-based private sector dental plan. And, the member may initiate disenrollment when the member no longer has eligible dependents or no eligible dependents residing within the jurisdiction of the Dependents Dental Plan. Title 10, U.S.C. 1056(a) prohibits dependents enrolled in the Dependents' Dental Plan from receiving the services authorized as benefits from military dental care facilities, except for emergency treatment and diagnostic services required for delivery of services not covered by the plan. These provisions have been added in § 199.13(c)(5)(iii) and (iv) of the final rule.

One commenter proposed changes with respect to the explanation of coverage for dental hygienists as authorized providers, suggesting that language identifying that dental hygienists are not authorized as independent practitioners except in a

small number of states should be deleted as redundant to the statement that dental hygienists are authorized providers only within the scope of their licenses. A purpose of the rule is to clearly communicate to the Dependents' Dental Plan beneficiaries who is authorized to provide what benefits. After careful review, we believe that a modified version of this statement is essential to beneficiary understanding of the limitations on the availability of services by dental hygienists in independent practice.

A commenter identified that about fourteen percent of currently licensed dental hygienists are qualified by a certificate in dental hygiene that is accepted by accrediting and licensing bodies as comparable to the associate degree. The language of § 199.13(b) has been changed to include these dental hygienists within the terms of those provisions.

A commenter suggested that § 199.13(f)(1) be clarified to assure that services of dental lab technicians were covered. This suggestion was not adopted since these services are rendered under varying licensure and certification requirements. The extent of coverage must be determined by the contractor where the services are ordered by the dentist in connection with other primary covered services under the Dependents Dental Plan.

Two commenters recommended that dental sealants be included within the definition of preventive services covered by the Dependents' Dental Plan. The commenters suggest that the initial cost of these services would result in program savings over the long term as well as in savings to beneficiaries who would not incur more extensive, uncovered restorative services in future years. The short-term costs of dental sealants were not included in the benefit design or funding request, and cannot be added at this time. However, we will study the feasibility and long-term cost effectiveness of adding this benefit, and report recommendations in July, 1988.

Several commenters expressed concern that the limitations on coverage of diagnostic tests were not clearly communicated in the benefits section. In § 199.13(e)(2)(A) (2) and (3), commenters felt there was a need to be more explicit with respect to which radiologic and laboratory services were covered. Diagnostic services are covered when they are necessary and appropriate to the dental condition and to the necessary and appropriate performance of covered preventive and restorative services. In addition, some procedures such as an arthrogram [00320] would never be covered because the procedures are performed only in the management and treatment of non-covered conditions.

We agree that clarification is required. Further investigation has identified several infrequently used procedures that are not covered by the Dependents' Dental Plan because they are employed only in the management and treatment of non-covered conditions. Consequently, it is not appropriate for them to be covered by the Dependents' Dental Plan. These procedures have been listed in § 199.13(e)(2)(i) and (iii)(A) of the final rule as exclusions. Reference to these procedures in the dental benefits brochure issued by the contractor is in conflict with this clarification and will be corrected in the next annual issuance of the brochure. It is not possible to identify in the final rule the large number of combinations of circumstances and conditions in which other diagnostic procedures would be covered and not covered. Instead, we have clarified the general provisions of § 199.13(e), and will reply on the expertise of the Plan's insurer to make the detailed adjudication decisions in compliance with the general provision.

One commenter noted that the proposed rule did not include the provision of law which excludes availability to enrolled beneficiaries of military dental care for benefits covered by the Plan. A provision has been added in § 199.13(e)(2)(vii) to correct this oversight.

A commenter recommended that subsections § 199.13(f)(6)(i) and (ii) be changed to provide the same level of reimbursement to participating and non-participating providers. The commenter argued that some state insurance regulations prohibit *private* programs from making a distinction in level of reimbursement between participating and non-participating providers, and that publication of a list of participating dentists is an adequate incentive to encourage participation. We have reviewed this provision and determined that the reimbursement distinction is frequently used by dental insurers and results in increased numbers of participating providers. The state insurance regulations prohibiting such distinctions include only a few states and do not include a prohibition of such distinctions for public programs. We believe that the distinction provides a small but highly visible and necessary incentive for participation and have accordingly made no change in this provision.

A commenter recommended elimination of the provision for exclusive provider arrangements in order to assure that beneficiaries receive the same opportunities to receive treatment from dentists of their choice as employed by the public at large. While this is the present practice of the Dependents Dental Plan, it has been determined that this provision should be retained in order to provide a potential, future alternative form of contracting for benefits in the event that beneficiaries and the government should encounter adverse pricing or participation practices by most providers in given localities. In addition, this provision is considered necessary in assuring a wide range of competition in future solicitation of the Plan.

Other comments received offered minor technical and editorial changes which were duly considered. Based on one technical comment, § 199.13 (a)(7) and (e)(1)(iii) have been revised since records by contract are retained by the insurer as business records, subject to inspection by the government and transfer to another insurer in the event of a change in contractor. Enrollment records are government-furnished property and are maintained by the insurer. The government receives management reports and does not maintain a system of records for the Dependents' Dental Plan.

List of Subjects in 32 CFR Part 199

Dental insurance, Claims, Handicapped, Health insurance, Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR Part 199 is amended as follows:

1. The authority citation for Part 199 is revised to read as follows:

Authority: 10 U.S.C. 1076a, 1079, 1086; 5 U.S.C. 301.

2. Section 199.13 is added to read as follows:

§ 199.13 Active duty dependents dental plan.

(a) *General provisions*—(1) *Purpose.* This section prescribes guidelines and policies for the delivery and administration of the Active Duty Dependents Dental Plan of the Uniformed Services for the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Commissioned Corps of the U.S. Public Health Service (USPHS), and the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA).

(2) *Applicability*—(i) *Geographic.* This section is applicable geographically within the 50 States of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

(ii) *Agency.* The provisions of this section apply throughout the Department of Defense (DoD), the Coast Guard, the Commissioned Corps of the USPHS, and the Commissioned Corps of the NOAA.

(3) *Authority and responsibility*—(i) *Legislative authority*—(A) *Joint regulations.* 10 U.S.C. Chapter 55, 1076a authorizes the Secretary of Defense, in consultation with the Secretary of Health and Human Services and the Secretary of Transportation, to prescribe regulations for the administration of the Active Duty Dependents Dental Plan.

(B) *Administration.* 10 U.S.C. Chapter 55 also authorizes the Secretary of Defense to administer the Active Duty Dependents Dental Plan for the Army, Navy, Air Force, and Marine Corps under DoD jurisdiction, the Secretary of Transportation to administer the Active Duty Dependents Dental Plan for the Coast Guard, when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services to administer the Active Duty Dependents Dental Plan for the Commissioned Corps of the NOAA and the USPHS.

(ii) *Organizational delegations and assignments*—(A) *Assistant Secretary of Defense (Health Affairs) (ASD(HA)).* The Secretary of Defense, by 32 CFR Part 367, delegated authority to the ASD(HA) to provide policy guidance, management control, and coordination as required for all DoD health and medical resources and functional areas including health benefit programs. Implementing authority is contained in 32 CFR Part 367. For additional implementing authority see § 199.1 (c) of this part.

(B) *Evidence of eligibility.* The Department of Defense, through the defense Enrollment Eligibility Reporting System (DEERS), is responsible for establishing and maintaining a listing of persons eligible to receive benefits under the Active Duty Dependents Dental Plan.

(4) *Active duty dependents dental benefit plan.* This is a program of dental benefits provided by the U.S. Government under public law to specified categories of individuals who are qualified for these benefits by virtue of their relationship to one of the seven Uniformed Services, and their voluntary decision to accept enrollment in the program and cost share with the Government in the premium cost of the benefits. The Dependents Dental Plan is an insurance, service, or prepayment plan involving a contract guaranteeing the indemnification or payment of the enrolled member's dependents against a specified loss in return for a premium paid. Where state regulations, charter requirements, or other provisions of state and local regulation governing dental insurance and prepayment programs conflict with Federal law and regulation governing this Program, Federal law and regualtion shall govern. Otherwise, this Program shall comply with state and local regulatory requirements.

(5) *Plan funds*—(i) *Funding sources.* The funds used by the Active Duty Dependents Dental Plan are appropriated funds furnished by the Congress through the annual appropriation acts for the Department of Defense and the Department of Health and Human Services and funds collected by the Uniformed Services monthly through payroll deductions as premium shares from enrolled members.

(ii) *Disposition of funds.* Plan funds are paid by the Government as premiums to an insurer, service, or prepaid dental care organization under a contract negotiated by the Director, OCHAMPUS, or a designee, under the provisions of the Federal Acquisition Regulation (FAR).

(iii) *Plan.* The Director, OCHAMPUS or designee provides an insurance policy, service plan, or prepaid contract of benefits in accordance with those prescribed by law and regulation; as interpreted and adjudicated in accord with the policy, service plan, or contract and a dental benefits brochure; and as prescribed by requirements of the dental plan organization's contract with the government.

(iv) *Contracting out.* The method of delivery of the Active Duty Dependents Dental Benefit Plan is through a competitively procured contract. The Director, OCHAMPUS, or a designee is responsible for negotiating, under provisions of the FAR, a contract for dental benefits insurance or prepayment which includes responsibility for (A) development, publication, and enforcement of benefit policy, exclusions, and limitations in compliance with the law, regulation, and the contract provisions; (B) adjudicating and processing claims; and conducting related supporting activities, such as eligibility verification, provider relations, and beneficiary communications.

(6) *Role of Health Benefits Advisor (HBA).* The HBA is appointed [generally by the commander of a Uniformed Services medical treatment facility] to serve as an advisor to patients and staff in matters involving the Active Duty Dependents Dental Plan. The HBA may assist beneficiaries or sponsors in applying for benefits, in the preparation of claims, and in their relations with OCHAMPUS and the dental plan insurer. However, the HBA is not responsible for the plan's policies and procedures and has no authority to make benefit determinations or obligate the plan's funds. Advice given to beneficiaries as to determination of benefits or level of payment is not binding on OCHAMPUS or the insurer.

(7) *Disclosure of information to the public.* Records and information acquired in the administration of the Active Duty Dependents Dental Plan are not records of the Department of Defense. The records are established by the Dependents Dental Plan insurer in accordance with standard business practices of the industry, and are used in the determination of eligibility, program management and operations, utilization review, quality assurance, program integrity, and underwriting in accordance with standard business practices. By contract, the records and information are subject to government audit and the government receives reports derived from them. Records and information specified by contract are provided by an outgoing insurer to a successor insurer in the event of a change in the contractor.

(8) *Equality of benefits.* All claims submitted for benefits under the Active Duty Dependents Dental Plan shall be adjudicated in a consistent, fair, and equitable manner, without regard to the rank of the sponsor.

(9) *Coordination of benefits.* The dental plan insurer shall conduct coordination of benefits for the Active Duty Dependents Dental Plan in accordance with generally accepted business practices.

(10) *Information on participating providers.* The Director, OCHAMPUS or designee, shall develop and make available to Uniformed Services Health Benefits Advisors and military installation personnel centers copies of lists of participating providers and providers accepting assignment for all localities with significant numbers of dependents of active duty members. In addition, the Director, OCHAMPUS or designee, shall respond to inquiries regarding availability of participating providers in areas not covered by the lists of participating providers.

(b) *Definitions.* For most definitions applicable to the provisions of this section, refer to section § 199.2. The following definitions apply only to this section.

Assignment. Acceptance by a nonparticipating provider of payment directly from the insurer while reserving

the right to charge the beneficiary or sponsor for any remaining amount of the fees for services which exceeds the prevailing fee allowance of the insurer.

Authorized Provider. A dentist or dental hygienist specifically authorized to provide benefits under the Active Duty Dependents Dental Plan in paragraph (f) of this section.

Beneficiary. A dependent of an active duty member who has been enrolled in the Active Duty Dependents Dental Plan, and has been determined to be eligible for benefits, as set forth in paragraph (c) of this section.

Beneficiary Liability. The legal obligation of a beneficiary, his or her estate, or responsible family member to pay for the costs of dental care or treatment received. Specifically, for the purposes of services and supplies covered by the Active Duty Dependents Dental Plan, beneficiary liability includes cost-sharing amounts for restorative services, and, any amount above the prevailing fee determination by the insurer for either preventive or restorative services where the provider selected by the beneficiary is not a participating provider or a provider within an approved alternative delivery system. Beneficiary liability also includes any expenses for services and supplies not covered by the Active Duty Dependents Dental Benefit Plan, less any discount provided as a part of the insurer's agreement with an approved alternative delivery system.

By report. Dental procedures which are authorized as benefits only in unusual circumstances requiring justification of exceptional conditions related to otherwise authorized procedures. For example, a house call might be justified based on an enrolled dependent's severe handicap which prevents visits in the dentist's office for traditional prophylaxis. Alternatively, additional drugs might be required separately from an otherwise authorized procedure because of an emergent reaction caused by drug interaction during the performance of a restoration procedure. These services are further defined in paragraph (e) of this section.

Cost-Share. The amount of money for which the beneficiary (or sponsor) is responsible in connection with otherwise covered dental services (other than disallowed amounts) as set forth in paragraphs (d) (6) and (e) of this section. Cost-sharing may also be referred to as "co-payment."

Defense Enrollment Eligibility Reporting System (DEERS). The automated system that is composed of two phases:

(1) Enrolling all active duty and retired service members, their dependents, and the dependents of deceased service members, and

(2) Verifying their eligibility for health care benefits in the direct care facilities and through the Active Duty Dependents Dental Plan.

Dental hygienist. Practitioner in rendering complete oral prophylaxis services, applying medication, performing dental radiography, and providing dental education services with a certificate, associate degree, or bachelor's degree in the field, and licensed by an appropriate authority.

Dentist. Doctor of Dental Medicine (D.M.D.) or Doctor of Dental Surgery (D.D.S.) who is licensed to practice dentistry by an appropriate authority.

Diagnostic services. Category of dental services including: (1) Clinical oral examinations, (2) radiographic examinations, and (3) diagnostic laboratory tests and examinations provided in connection with other dental procedures authorized as benefits of the Active Duty Dependents Dental Plan and further defined in paragraph (e) of this section.

Emergency palliative services. Minor procedures performed for the immediate relief of pain and discomfort as further defined in paragraph (e) of this section. This definition excludes those procedures other than minor palliative services which may result in the relief of pain and discomfort, but constitute the usual initial stage or conclusive treatment in procedures not otherwise defined as benefits of the Active Duty Dependents Dental Plan.

Initial Determination. A formal written decision on an Active Duty Dependents Dental Plan claim, a request by a provider for approval as an authorized provider, or a decision disqualifying or excluding a provider as an authorized provider under the Active Duty Dependents Dental Plan. Rejection of a claim or a request for benefit or provider authorization for failure to comply with administrative requirements, including failure to submit reasonably requested information, is not an initial determination. Responses to general or specific inquiries regarding Active Duty Dependent Dental Plan benefits are not initial determinations.

Laboratory and Pathology Services. Laboratory and pathology examinations (including machine diagnostic tests that produce hard-copy results) ordered by a dentist when necessary to, and rendered in connection with other covered dental services.

Nonparticipating provider. A dentist or dental hygienist that furnished dental services to an Active Duty Dependents Dental Plan beneficiary, but who has not agreed to participate or to accept the insurer's fee allowances and applicable cost share as the total charge for the services. A nonparticipating provider looks to the beneficiary or sponsor for final responsibility for payment of his or her charge, but may accept payment (assignment of benefits) directly from the insurer or assist the beneficiary in filing the claim for reimbursement by the contractor. Where the nonparticipating provider does not accept payment directly from the insurer, the insurer pays the beneficiary or sponsor, not the provider.

Participating Provider. A dentist or dental hygienist who has agreed to accept the insurer's reasonable fee allowances or other fee arrangements as the total charge (even though less than the actual billed amount), including provision for payment to the provider by the beneficiary (or sponsor) of the twenty percent cost-share for restorative services.

Party to a Hearing. An appealing party or parties, the insurer, and OCHAMPUS.

Party to the Initial Determination. Includes the Active Duty Dependents Dental Plan, a beneficiary of the Active Duty Dependents Dental Plan and a participating provider of services whose interests have been adjudicated by the initial determination. In addition, a provider who has been denied approval as an authorized Active Duty Dependents Dental Plan provider is a party to that initial determination, as is a provider who is disqualified or excluded as an authorized provider, unless the provider is excluded under another federal or federally funded program. See paragraph (h) of this section for additional information concerning parties not entitled to administrative review under the Active Duty Dependents Dental Plan appeals procedures.

Preventive Services. Traditional prophylaxis including scaling deposits from teeth, polishing teeth, and topical application of fluoride to teeth as further defined in paragraph (e) of this section.

Provider. A dentist or dental hygienist as specified in paragraph (f) of this section.

Representative. Any person who has been appointed by a party to the initial determination as counsel or advisor and who is otherwise eligible to serve as the counsel or advisor of the party to the initial determination, particularly in connection with a hearing.

Restorative services. Restoration of teeth including those procedures commonly described as amalgam restorations, resin restorations, pin retention, and stainless steel crowns for

primary teeth as further defined in paragraph (e) of this section.

(c) *Enrollment and eligibility*—(1) *General.* Sections 1076a and 1072(2)(D) of 10 U.S.C., Chapter 55 set forth those persons who are eligible for voluntary enrollment in the Active Duty Dependents Dental Benefit Plan. A determination that a person is eligible for voluntary enrollment does not entitle such a person automatically to benefit payments. The active duty member must enroll his or her dependents as defined in this section, and other sections of this part set forth additional requirements that must be met before eligibility for the plan is extended.

(2) *Persons eligible—Dependent.* A person who bears one of the following relationships to an active duty member (under a call or order that does not specify a period of 30 days or less).

(i) *Spouse.* A lawful husband or wife, regardless of whether or not dependent upon the active duty member.

(ii) *Child.* To be eligible, the child must be unmarried and meet one of the requirements of this section.

(A) A legitimate child.

(B) An adopted child whose adoption has been completed legally.

(C) A legitimate stepchild.

(D) An illegitimate child of a male member whose paternity has been determined judicially, or an illegitimate child of record of a female member who has been directed judicially to support the child.

(E) An illegitimate child of a male active duty member whose paternity has not been determined judicially, or an illegitimate child of record of a female active duty member who—

(*1*) Resides with or in a home provided by the member and

(*2*) Is and continues to be dependent upon the member for over 50 percent of his or her support.

(F) An illegitimate child of the spouse of an active duty member (that is, the active duty member's stepchild) who—

(*1*) Resides with or in a home provided by the active duty member or the parent who is the spouse of the member and

(*2*) Is and continues to be dependent upon the member for over 50 percent of his or her support.

(G) In addition to meeting one of the criteria (A) through (F) of this paragraph (c)(2), the child:

(*1*) Must not be married.

(*2*) Must be in one of the following three age groups:

(*A*) Not passed his or her 21st birthday.

(*B*) Passed his or her 21st birthday, but incapable of self-support because of a mental or physical incapacity that existed before his or her 21st birthday and dependent on the member for over 50 percent of his or her support. Such incapacity must be continuous. If the incapacity significantly improves or ceases at any time after age 21, even if such incapacity recurs subsequently, eligibility cannot be reinstated on the basis of the incapacity. If the child was not handicapped mentally or physically at his or her 21st birthday, but becomes so incapacitated after that time, no eligibility exists on the basis of the incapacity.

(*C*) Passed his or her 21st birthday, but not his or her 23rd birthday, dependent upon the member for over 50 percent of his or her support, and pursuing a full-time course of education in an institution of higher learning approved by the Secretary of Defense or the Department of Education (as appropriate) or by a state agency under 38 U.S.C., Chapters 34 and 35.

Note: Courses of education offered by institutions listed in the "Education Directory, Part 3, Higher Education" or "Accredited Higher Institutions," issued periodically by the Department of Education meet the criteria approved by the Secretary of Defense or the Department of Education, (refer to § 199.3(b)(2)(iv)(C)(*1*) of this section). For determination of approval of courses offered by a foreign institution, by an institution not listed in either of the above directories, or by an institution not approved by a state agency pursuant to Chapters 34 and 35 of 38 U.S.C., a statement may be obtained from the Department of Education, Washington, DC 20202.

(3) *Enrollment*—(i) *Initial enrollment.* Eligible dependents of members on active duty status as of August 1, 1987 are automatically enrolled in the Active Duty Dependents Dental Benefit Plan, except where any of the following conditions apply:

(A) Remaining period of active duty at the time of contemplated enrollment is expected by the active duty member of the Uniformed Service to be less than two years, except that such members' dependents may be enrolled during the initial enrollment period for benefits beginning August 1, 1987 provided that the member has at least six months remaining in the initial enlistment term. Enrollment of dependents is for a period of two years, subject to the exceptions provided in (c)(5).

(B) Active duty member has completed an election to disenroll his or her dependents from the Active Duty Dependents Dental Plan.

(C) Active duty member has only one dependent who is under four years of age as of August 1, 1987, and the member does not complete an election to enroll the child.

(ii) *Subsequent enrollment.* Eligible active duty members may elect to enroll their dependents for a period of not less than two years, provided there is an intent to remain on active duty for a period of not less than two years by the member and the Uniformed Service.

(iii) *Inclusive family enrollment.* All eligible dependents of the active duty member must be enrolled if any are enrolled, except that a member may elect to enroll only those dependents who are remotely located from the member (e.g., a child living with a divorced spouse or a child in college).

(4) *Beginning dates of eligibility*—(i) *Initial enrollment.* The beginning date of eligibility for benefits is August 1, 1987.

(ii) *Subsequent enrollment.* The beginning date of eligibility for benefits is the first day of the month following the month in which the election of enrollment is completed, signed, and received by the active duty member's Service representative, except that the date of eligibility shall not be earlier than September 1, 1987.

(5) *Changes in and termination of enrollment*—(i) *Changes in status of active duty member.* When an active duty member's period of active duty ends for any reason, his or her dependents lose their eligibility as of 11:59 p.m. of the last day of the month in which the active duty ends.

(ii) *Termination of eligibility for basic pay.* When a member ceases to be eligible for basic pay, eligibility of the member's dependents for benefits under the Dependents Dental Plan terminates as of 11:59 p.m. of the day the member became ineligible for basic pay and the Uniformed Service must notify the Plan of disenrollment based on termination of eligibility for basic pay. The member whose eligibility for basic pay is subsequently restored may enroll his or her dependents for a minimum of two years in accordance with § 199.13(c)(3)(ii).

(iii) *Changes in status of dependent*—(A) *Divorce.* A spouse separated from an active duty member by a final divorce decree loses all eligibility based on his or her former marital relationship as of 11:59 p.m. of the last day of the month in which the divorce becomes final. The eligibility of the member's own children (including adopted and eligible illegitimate children) is unaffected by the divorce. An unadopted stepchild, however, loses eligibility with the termination of the marriage, also as of 11:59 p.m. of the last day of the month in which the divorce becomes final.

(B) *Annulment.* A spouse whose marriage to an active duty member is dissolved by annulment loses eligibility as of 11:59 p.m. of the last day of the

month in which the court grants the annulment order. The fact that the annulment legally declares the entire marriage void from its inception does not affect the termination date of eligibility. When there are children, the eligibility of the member's own children (including adopted and eligible illegitimate children) is unaffected by the annulment. An unadopted stepchild, however, loses eligibility with the annulment of the marriage, also as of 11:59 p.m. of the last day of the month in which the court grants the annulment order.

(C) *Adoption.* A child of an active duty member who is adopted by a person, other than a person whose dependents are eligible for the Active Duty Dependents Dental Plan benefits while the active duty member is living, thereby severing the legal relationship between the child and the sponsor, loses eligibility as of 11:59 p.m. of the last day of the month in which the adoption becomes final.

(D) *Marriage of child.* A child of an active duty member who marries a person whose dependents are not eligible for the Active Duty Dependents Dental Plan, loses eligibility as of 11:59 p.m. on the last day of the month in which the marriage takes place. However, should the marriage be terminated by death, divorce, or annulment before the child is 21 years old, the child again becomes eligible for enrollment as a dependent as of 12:00 a.m. of the first day of the month following the month in which the occurrence takes place that terminates the marriage and continues up to age 21 if the child does not remarry before that time. If the marriage terminates after the child's 21st birthday, there is no reinstatement of eligibility.

(E) *Disabling illness or injury of child age 21 or 22 who has eligibility based on his or her student status.* A child 21 or 22 years old who is pursuing a full-time course of higher education and who, either during the school year or between semesters, suffers a disabling illness or injury with resultant inability to resume attendance at the institution remains eligible for dental benefits for 6 months after the disability is removed or until the student passes his or her 23rd birthday, whichever occurs first. However, if recovery occurs before the 23rd birthday and there is resumption of a full-time course of higher education, dental benefits can be continued until the 23rd birthday. The normal vacation periods during an established school year do not change the eligibility status of a dependent child 21 or 22 years old in full-time student status. Unless an incapacitating condition existed before, and at the time of, a dependent child's 21st birthday, a dependent child 21 or 22 years old in student status does not have eligibility related to mental or physical incapacity as described in § 199.3(b)(2)(iv)(C)(*2*) of this section.

(iv) *Disenrollment because of no eligible dependents.* When an active duty member ceases to have any eligible dependents residing within the Plan's jurisdiction, the member must disenroll.

(v) *Option to disenroll as a result of a change in active duty station.* When an active duty member makes a permanent change in duty station resulting in a move of more than 50 miles of his or her dependents to a new locality, the member may elect within 90 days of the change to disenroll from the Plan if dental care for these benefits is available from a local military dental clinic available to the member's dependents.

(vi) *Option to disenroll as a result of electing other dental insurance coverage.* When an active duty member's dependents become enrolled in another employment-based dental insurance plan, the member may elect to disenroll from the Active Duty Dependents Dental Plan. Proof of other employment-based dental insurance coverage must be provided to the appropriate Service representative prior to approval of disenrollment.

(vii) *Option to disenroll after an initial two-year enrollment.* When an active duty member's enrollment of his or her dependents has been in effect for a continuous period of two years, the member may disenroll his or her dependents at any time. Subsequently, the member may enroll his or her dependents for another minimum period of two years.

(6) *Eligibility determination and enrollment*—(i) *Eligibility determination and enrollment responsibility of Uniformed Services.* Determination of a person's eligibility and processing of enrollment in the Active Duty Dependents Dental Benefit Plan is the responsibility of the active duty member's Uniformed Service. For the purpose of program integrity, the appropriate Uniformed Service shall, upon request of the Director, OCHAMPUS, review the eligibility of a specific person when there is reason to question the eligibility status. In such cases, a report on the result of the review and any action taken will be submitted to the Director, OCHAMPUS, or a designee.

(ii) *Procedures for determination of eligibility.* Uniformed Services identification cards do not distinguish eligibility for the Active Duty Dependents Dental Plan. Procedures for the determination of eligibility are identified in § 199.3(f)(2) of this part, except that Uniformed Services identification cards do not provide evidence of eligibility for the dental plan.

(7) *Evidence of eligibility required.* Eligibility and enrollment in the Active Duty Dependents Dental Plan will be verified through the DEERS (DoD 1341.1–M, "Defense Enrollment Eligibility Reporting System (DEERS) Program Manual," May 1982).

(i) *Acceptable evidence of eligibility and enrollment.* Eligibility information established and maintained in the DEERS files is the only acceptable evidence of eligibility.

(ii) *Responsibility for obtaining evidence of eligibility.* It is the responsibility of the active duty member, or Active Duty Dependent Dental Plan beneficiary, parent, or legal representative, when appropriate, to enroll with a Uniformed Service authorized representative and provide adequate evidence for entry into the DEERS file to establish eligibility for the Active Duty Dependents Dental Plan, and to ensure that all changes in status that may affect enrollment and eligibility are reported immediately to the appropriate Uniformed Service for action. Ineligibility for benefits is presumed in the absence of prescribed enrollment and eligibility evidence in the DEERS file.

(d) *Premium sharing*— (1) *General.* Active duty members enrolling their dependents in the Active Duty Dependents Dental Plan shall be required to pay a share of the premium cost for their dependents.

(2) *Premium classifications.* Premium classifications are established by the Secretary of Defense, or designee, and provide for a minimum of two classifications, single and family.

(3) *Premium amounts.* The premium amounts to be paid for the Active Duty Dependents Dental plan are established by the Secretary of Defense or designee.

(4) *Proportion of member's premium share.* The proportion of premium share to be paid by the member is established by the Secretary of Defense or designee, at not more than 40 percent of the total premium.

(5) *Pay deduction.* The member's premium share shall be deducted from the basic pay of the member.

(e) *Plan benefits*—(1) *General*—(i) *Scope of benefits.* The Active Duty Dependents Dental Plan provides coverage for certain basic dental diagnostic, minor palliative emergency,

preventive, and restorative services to eligible, enrolled dependents of active duty members as set forth in paragraph (c) of this section.

(ii) *Authority to act for the plan.* The authority to make benefit determinations and authorize plan payments under the Active Duty Dependents Dental Plan rests primarily with the insurance, service plan, or prepayment dental plan contractor, subject to compliance with federal law and regulation and government contract provisions. The Director, OCHAMPUS, or designee, provides required benefit policy decisions resulting from changes in federal law and regulation and appeal decisions. No other persons or agents (such as dentists or Uniformed Services health benefits advisors) have such authority.

(iii) *Right to information.* As a condition precedent to the provision of benefits hereunder, the Director, OCHAMPUS, or designee, shall be entitled to receive information from an authorized provider or other person, institution, or organization (including a local, state, or U.S. Government agency) providing services or supplies to the beneficiary for which claims for benefits are submitted. While establishing enrollment and eligibility, benefits, and benefit utilization and performance reporting information standards; the government has not established and does not maintain a system of records and information for the Dependents Dental Plan. By contract, the government audits the adequacy and accuracy of the dental contractor's system of records and requires access to information and records to meet program accountabilities. Such information and records may relate to attendance, testing, monitoring, examination, or diagnosis of dental disease or conditions; or treatment rendered; or services and supplies furnished to a beneficiary; and shall be necessary for the accurate and efficient administration and payment of benefits under this plan. Before a determination will be made on a claim of benefits, a beneficiary or active duty member must provide particular additional information relevant to the requested determination, when necessary. Failure to provide the requested information may result in denial of the claim. The recipient of such information shall in every case hold such records confidential except when—

(A) Disclosure of such information is necessary to the determination by a provider or the Plan contractor of beneficiary enrollment or eligibility for coverage of specific services;

(B) Disclosure of such information is authorized specifically by the beneficiary;

(C) Disclosure is necessary to permit authorized governmental officials to investigate and prosecute criminal actions; or

(D) Disclosure constitutes a standard and acceptable business practice commonly used among dental insurers which is consistent with the principle of preserving confidentiality of personal information and detailed clinical data. For example, the release of utilization information for the purpose of determining eligibility for certain services, such as the number of dental prophylaxis procedures performed for a beneficiary, is authorized.

(E) Disclosure by the Director, OCHAMPUS, or designee, is for the purpose of determining the applicability of, and implementing the provisions of, other dental benefits coverage or entitlement.

(iv) *Dental insurance policy, prepayment, or dental service plan contract.* The Director, OCHAMPUS, or designee, shall develop a standard insurance policy, prepayment agreement, or dental service plan contract designating OCHAMPUS as the policyholder or purchaser. The policy shall be in the form customarily employed by the dental plan insurer, subject to its compliance with federal law and the provisions of this Regulation.

(v) *Dental benefits brochure*—(A) *Content.* The Director, OCHAMPUS, or designee, shall establish a dental benefits brochure explaining the benefits of the plan in common lay terminology. The brochure shall include the limitations and exclusions and other benefit determination rules for administering the benefits in accordance with the law and this part. The brochure shall include the rules for adjudication and payment of claims, appealable issues, and appeal procedures in sufficient detail to serve as a common basis for interpretation and understanding of the rules by providers, beneficiaries, claims examiners, correspondence specialists, employees and representatives of other government bodies, health benefits advisors, and other interested parties. Any conflict which may occur between the dental benefits brochure and law or regulation shall be resolved in favor of law and regulation.

(B) *Distribution.* The dental benefits brochure shall be printed and distributed with the assistance of the Uniformed Services to all active duty members enrolling their dependents, health benefits advisors, major personnel centers at Uniformed Services installations, and authorized providers of care.

(vi) *Utilization review and quality assurance.* Claims submitted for benefits under the Active Duty Dependents Dental Plan are subject to review by the Director, OCHAMPUS or designee for quality of care and appropriate utilization. The Director, OCHAMPUS or designee is responsible for appropriate utilization review and quality assurance standards, norms, and criteria consistent with the level of benefits.

(vii) *Alternative course of treatment policy.* The Director, OCHAMPUS or designee may establish, in accordance with generally accepted dental benefit practices, an alternative course of treatment policy which provides reimbursement in instances where the dentist and beneficiary select a more expensive service, procedure, or course of treatment than is customarily provided. The benefit policy must meet the following conditions:

(A) The service, procedure, or course of treatment must be consistent with sound professional standards of dental practice for the dental condition concerned.

(B) The service, procedure, or course of treatment must be a generally accepted alternative for a service or procedure covered by this plan for the dental condition.

(C) Payment for the alternative service or procedure may not exceed the lower of the prevailing limits for the alternative procedure, the prevailing limits or scheduled allowance for the otherwise authorized benefit procedure for which the alternative is substituted, or the actual charge for the alternative procedure.

(2) *Benefits*—(i) *Diagnostic, preventive, and emergency palliative services.* Benefits may be extended for those dental services described as oral examination, diagnostic, emergency minor palliative, and preventive services defined as traditional prophylaxis (i.e., scaling deposits from teeth, polishing teeth, and topical application of fluoride to teeth) when performed directly by dentists or dental hygienists as authorized under paragraph (f) of this section. Diagnostic and by report services are covered only when they are necessary to covered preventive and restorative procedures. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules approved by OCHAMPUS and provided in the dental benefits brochure) using the American

Dental Association, The Council on Dental Care Programs' Code On Dental Procedures and Nomenclature as follows:

(A) *Diagnostic.* (*1*) Clinical oral examinations including initial (00110), periodic (00120), and emergency (00130).

(*2*) Radiographs appropriate to the diagnosis and prevention of dental disease, where such services are not directly related to non-covered major procedures. Subject to the dental plan's exclusions and limitations approved by OCHAMPUS, these procedures are included within the range of 00210 to 00340. Procedures 00290 (posterior-anterior or lateral skull and facial bone survey film), 00315 (sialography), 00320 (temporomandibular joint arthrogram), 00321 (other temporomandibular joint films), and 00340 (cephalometric film) are excluded.

(*3*) Tests and laboratory examinations appropriate to the diagnosis and prevention of dental disease, where such services are not directly related to non-covered major procedures. These procedures are included within the range of 00410 to 00999, subject to the dental plan's exclusions and limitations as adopted by OCHAMPUS. Procedures 00415 (bacteriologic studies to determine pathologic agents), 00470 (diagnostic casts), 00471 (diagnostic photographs), 00501 (histopathologic examinations), 00502 (other oral pathology procedures), and 00999 (unspecified diagnostic procedures) are excluded.

(B) *Preventive.* (*1*) Dental prophylaxis, including adult (01110) and child (01120).

(*2*) Topical fluoride treatment, including prophylaxis for a child (01201) and an adult (01205), and (where the Director, OCHAMPUS or designee determines to be appropriate) without prophylaxis for a child (01203) and an adult (01204).

(*3*) Space maintenance with passive appliances for those procedures included within the range of 01510 and 01550.

(C) *Emergency palliative.* Minor palliative procedure for immediate and temporary relief of pain and suffering (09110).

(ii) *Restorative.* Benefits may be extended for basic restorative services of amalgam, composite restorations, and stainless steel crowns for primary teeth when performed directly by dentists or dental hygienists, or under orders and supervision by dentists, as authorized under paragraph (f) of this section. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code On Dental Procedures and Nomenclature as follows:

(A) Amalgam restorations, including polishing of one to four or more surfaces for primary and permanent teeth and included within the range of 02110 and 02161.

(B) Silicate restorations (02210).

(C) Resin restorations (subject to accepted dental practice) of one to four surfaces and included within the range of 02330 and 02387.

(D) Stainless steel crown for primary tooth (02930).

(E) Pin retention (02951).

(iii) *Dental appliance repairs.* Benefits may be extended for repairs to completely removable dentures when performed directly by dentists, or under orders and supervision by dentists as authorized under paragraph (f) of this part; subject to the dental plan's exclusions and limitations as adopted by OCHAMPUS. These procedures are included within the range of 05510 and 05660.

(iv) *Services "By Report."* The following procedures are authorized when performed directly by dentists or dental hygienists only in unusual circumstances requiring justification of exceptional conditions directly related to otherwise authorized procedures. They are generally reserved for use where mental or physical impairments prevent the rendering of otherwise authorized procedures of this dental plan without one or more of these additional services. Use of the procedures may not result in the fragmentation of services normally included in a single procedure. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code On Dental Procedures and Nomenclature as follows:

(A) Consultation (09310).

(B) House call (09440).

(C) Hospital call (09420).

(D) Office visit (after hours—09440).

(E) Drug injection (09610).

(F) Other prescription drugs (09630).

(v) *Exclusion of adjunctive dental care.* Under limited circumstances, benefits are available for dental services and supplies under CHAMPUS when the dental care is medically necessary in the treatment of an otherwise covered medical (not dental) condition, is an integral part of the treatment of such medical condition, and is essential to the control of the primary medical condition; or is required in preparation for or as the result of dental trauma which may be or is caused by medically necessary treatment of an injury or disease (iatrogenic). These benefits are excluded under the Active Duty Dependents Dental Plan. For further information on adjunctive dental care benefits under CHAMPUS, see § 199.4 (e)(10) (i) and (ii) of this part.

(vi) *Exclusion of benefit services performed in military dental care facilities.* Except for emergency treatment and services incidental to non-covered services, dependents enrolled in the Active Duty Dependents Dental Plan may not obtain those services which are benefits of the Plan in military dental care facilities. Enrolled dependents may continue to obtain non-covered services from military dental care facilities subject to the provisions for space available care.

(vii) *Benefit limitations and exclusions.* The Director, OCHAMPUS or designee may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by this dental plan.

(3) *Beneficiary or sponsor liability*—(i) *Diagnostic, preventive, and emergency palliative services.* Enrolled dependents of active duty members or their sponsors are responsible for the payment of only amounts for services rendered by nonparticipating providers of care which exceed the equivalent of the statewide or regional prevailing fee levels as established by the insurer. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, the dental plan will reimburse the dependent, or sponsor, or the nonparticipating provider selected by the dependent within 35 miles of the dependent's place of residence at the level of the provider's usual fees.

(ii) *Restorative services.* Enrolled dependents of active duty members or their sponsors are responsible for payment of 20 percent of the amounts determined by the insurer for services rendered by participating providers of care or 20 percent of these amounts plus any remainder of the charges made by nonparticipating providers of care. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, dependents or their sponsors are responsible for payment of 20 percent of the charges made by nonparticipating

providers located within 35 miles of the dependent's place of residence.

(iii) *Dental appliance repairs.* Enrolled dependents of active duty members are responsible for payment of the cost sharing amounts as provided in paragraph (e)(4)(ii) of this section.

(iv) *Services "By report."* Enrolled dependents of active duty members or their sponsors are responsible for payment of these services in accordance with their relationship to the otherwise authorized benefit procedures. For example, home visit charges which occur primarily for the purpose of rendering restorative services require payment of the 20 percent, while a home visit for purposes of dental prophylaxis do not require payment of the 20 percent. Payment of any remaining amount in excess of the prevailing charge limits established by the insurer would be required for services rendered by nonparticipating providers in either of the examples given, subject to the exceptions for dependent lack of access to participating providers as provided in paragraphs (e)(3)(i) and (ii) of this section. The contracting dental insurer may recognize a "by report" condition by providing an additional allowance to the primary covered procedure instead of recognizing or permitting a distinct billing for the "by report" service.

(v) *Amounts over the dental insurer's established allowances for charges.* It is the responsibility of the dental plan insurer to determine allowable charges for the procedures identified as benefits of this plan. All benefits of the plan are based on the insurer's determination of the allowable charges, subject to the exceptions for lack of access to participating providers as provided in paragraphs (e)(3)(i) and (ii) of this section.

(f) *Authorized providers*— (1) *General.* This section sets forth general policies and procedures that are the basis for the Active Duty Dependents Dental Plan cost sharing of dental services and supplies provided by or under the direct supervision or prescription by dentists, and by dental hygienists, within the scope of their licensure.

(i) *Listing of provider does not guarantee payment of benefits.* The fact that a type of provider is listed in this section is not to be construed to mean that the Active Duty Dependents Dental Plan will pay automatically a claim for services or supplies provided by such a provider. The Director, OCHAMPUS or designee also must determine if the patient is an eligible beneficiary, whether the services or supplies billed are authorized and medically necessary, and whether any of the authorized exclusions of otherwise qualified providers presented in this section apply.

(ii) *Conflict of interest.* See § 199.9(d)(2)(iv) of this part.

(iii) *Fraudulent practices or procedures.* See § 199.9(c) of this part.

(iv) *Utilization review and quality assurance.* Services and supplies furnished by providers of care shall be subject to utilization review and quality assurance standards, norms, and criteria established by the dental plan. Utilization review and quality assurance assessments shall be performed by the dental plan consistent with the nature and level of benefits of the plan, and shall include analysis of the data and findings by the dental plan insurer from other dental accounts.

(v) *Provider required.* In order to be considered benefits, all services and supplies shall be rendered by, prescribed by, or furnished at the direction of, or on the order of an Active Duty Dependents Dental Plan authorized provider practicing within the scope of his or her license.

(vi) *Participating provider.* An authorized provider may elect to participate and accept the fee or charge determinations as established and made known to the provider by the dental plan insurer. The fee or charge determinations are binding upon the provider in accordance with the dental plan insurer's procedures for participation. The authorized provider may not participate on a claim-by-claim basis. The participating provider must agree to accept within one day of a request for appointment, beneficiaries in need of emergency palliative treatment. Payment to the participating provider is based on the lower of the actual charge or the insurer's determination of the allowable charge. Payment is made directly to the participating provider, and the participating provider may charge the beneficiary only for the 20 percent cost share of the allowable charge for authorized restorative services in addition to the charges for any services not authorized as benefits.

(vii) *Nonparticipating provider.* An authorized provider may elect for all beneficiaries not to participate and request the beneficiary or sponsor to pay any amount of the provider's billed charge in excess of the dental plan insurer's determination of allowable charges. Neither the government nor the dental plan insurer shall have any responsibility for any amounts over the allowable charges as determined by the dental plan insurer, except where the dental plan insurer is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days. In such instances of the nonavailability of a participating provider, the nonparticipating provider located within 35 miles of the dependent's place of residence shall be paid his or her usual fees, less the 20 percent cost share for restorative services and related services by report.

(A) *Assignment.* A nonparticipating provider may accept assignment of claims for beneficiaries certifying their willingness to make such assignment by filing the claims completed with the assistance of the beneficiary or sponsor for direct payment by the dental plan insurer to the provider.

(B) *Nonassignment.* A nonparticipating provider for all beneficiaries may request the beneficiary or sponsor to file the claim directly with the dental plan insurer, making arrangements with the beneficiary or sponsor for direct payment by the beneficiary or sponsor.

(2) *Dentists.* Subject to standards of participation provisions of this part, the following are authorized providers of care:

(i) Doctors of Dental Surgery (D.D.S.) having a degree from an accredited school of dentistry, licensed to practice dentistry by a state board of dental examiners, and practicing within the scope of their licenses, whether in individual, group, or clinic practice settings.

(ii) Doctors of Dental Medicine (D.M.D.) having a degree from an accredited school of dentistry, licensed to practice dentistry by a state board of dental examiners, and practicing within the scope of their licenses, whether in individual, group, or clinic practice settings.

(3) *Dental hygienists.* Subject to state licensure laws and standards of participation provisions of this part, dental hygienists having an associate degree, certificate, or baccalaureate degree from an accredited school of dental hygiene, licensed to practice dental hygiene by a state board, and practicing within the scope of their licenses, whether in individual, group, or clinic practice settings.

Note: Dental hygienists may independently bill and receive payment only in the few states where the state licensure laws authorized them as independent providers of care. In nearly all states at the present time, the dental hygienist performs services under the supervision of a dentist and the Dependents Dental Plan will pay for such services in these states only when supervised and billed by a dentist.

(4) *Alternative delivery system*—(i) *General.* Alternative delivery systems may be established by the Director, OCHAMPUS or designee as authorized providers. Only dentists and dental hygienists shall be authorized to provide or direct the provision of authorized services and supplies in an approved alternative delivery system.

(ii) *Defined.* An alternative delivery system may be any approved arrangement for a preferred provider organization, capitation plan, dental health maintenance or clinic organization, or other contracted arrangement which is approved by OCHAMPUS in accordance with requirements and guidelines.

(iii) *Elective or exclusive arrangement.* Alternative delivery systems may be established by contract or other arrangement on either an elective or exclusive basis for beneficiary selection of participating and authorized providers in accordance with contractual requirements and guidelines.

(iv) *Provider election of participation.* Otherwise authorized providers must be provided with the opportunity of applying for participation in an alternative delivery system and of achieving participation status based on reasonable criteria for timeliness of application, quality of care, cost containment, geographic location, patient availability, and acceptance of reimbursement allowance.

(v) *Limitation on authorized providers.* Where exclusive alternative delivery systems are established, only providers participating in the alternative delivery system are authorized providers of care. In such instances, the dental plan shall continue to pay beneficiary claims for services rendered by otherwise authorized providers in accordance with established rules for reimbursement of nonparticipating providers where the beneficiary has established a patient relationship with the nonparticipating provider prior to the dental plan's proposal to subcontract with the alternative delivery system.

(vi) *Charge agreements.* Where the alternative delivery system employs a discounted fee-for-service reimbursement methodology or schedule of charges or rates which includes all or most dental services and procedures recognized by the American Dental Association, Council on Dental Care Programs "Code on Dental Procedures and Nomenclature (6th Revision)," the discounts or schedule of charges or rates for all dental services and procedures shall be extended by its participating providers to beneficiaries of the Active Duty Dependents Dental Plan as an incentive for beneficiary participation in the alternative delivery system.

(5) *Billing practices.* The Director, OCHAMPUS, or designee, approves the dental plan's procedures governing the itemization and completion of claims for services rendered by authorized providers to enrolled beneficiaries of the Active Duty Dependents Dental Plan consistent with the insurer's existing procedures for completion and submittal of dental claims for its other dental plans and accounts.

(6) *Reimbursement of authorized providers.* The Director, OCHAMPUS or designee, approves the dental plan methodology for reimbursement of services rendered by authorized providers consistent with law, regulation, and contract provisions, and the benefits of the Active Duty Dependents Dental Plan. The following general requirements for methodology shall be met, subject to modifications and exceptions approved by the Director, OCHAMPUS or a designee.

(i) Nonparticipating providers (or the dependents or sponsors for unassigned claims) shall be reimbursed at the equivalent of not less than the 50th percentile of prevailing charges made for similar services in the same locality (region) or state, or the provider's actual charge, whichever is lower; less any cost share amount due for restorative services, except where the dental plan insurer is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calender days. In such instances of the nonavailability of a participating provider, the nonparticipating provider located within 35 miles of the dependent's place of residence shall be paid his or her usual fees, less the 20 percent cost share for restorative services and related services by report.

(ii) Participating providers shall be reimbursed at the equivalent of a percentile of prevailing charges sufficiently above the 50th percentile of prevailing charges made for similar services in the same locality (region) or state as to constitute a significant financial incentive for participation, or the provider's actual charge, whichever is lower; less any cost share amount due for restorative services.

(g) *Benefit payment*—(1) *General.* Active Duty Dependent Dental Plan benefit payments are made either directly to the provider or to the beneficiary or sponsor, depending on the manner in which the claim is submitted or the terms of the subcontract of an alternative delivery system with the dental plan insurer.

(2) *Benefit payments made to a participating provider.* When the authorized provider has elected to participate in accordance with the arrangement and procedures established by the dental plan insurer, payment is made based on the lower of the actual charge or the insurer's determination of the allowable charge. Payment is made directly to the participating provider as payment in full, less the 20 percent cost share of the allowable charge for any of the restorative services authorized as benefits. The beneficiary or sponsor is responsible only for any required cost-sharing.

(3) *Benefit payments made to a nonparticipating provider.* When the authorized provider has elected not to participate in accordance with the arrangement and procedures established by the dental plan, payment is made by the insurer based on the lower of the actual charge or the insurer's determination of the allowable charge. The beneficiary is responsible for payment of the 20 percent cost-share of the allowable charge for any restorative services authorized as benefits, and any amount of the charge for all services above the allowable charge. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, dependents or their sponsors are responsible for payment of 20 percent of the charges made by nonparticipating providers located within 35 miles of the dependent's place of residence.

(i) Assigned claims are claims submitted directly by the nonparticipating provider and are paid directly to the provider.

(ii) Nonassigned claims are claims submitted by the beneficiary, provider, or sponsor and are paid directly to the claimant.

(4) *Dental Explanation of Benefits (DEOB).* An explanation of benefits is sent to the beneficiary or sponsor and provides the following information:

(i) Name and address of the beneficiary.

(ii) Social Security Account Number (SSAN) of the sponsor.

(iii) Name and address of the provider.

(iv) Services or supplies covered by the claim for which the DEOB applies.

(v) Dates the services or supplies were provided.

(vi) Amount billed; allowable charge; and amount of payment.

(vii) To whom payment, if any, was made.

(viii) Reasons for any denial.

(ix) Recourse available to beneficiary for review of claim decision (refer to paragraph (h) of this section).

(5) *Fraud*—(i) *Federal laws.* 18 U.S.C. 287 and 1001 provide for criminal penalties for submitting knowingly or making any false, fictitious, or fraudulent statement or claim in any matter within the jurisdiction of any department or agency of the United States. Examples of fraud include situations in which ineligible persons not enrolled in the Active Duty Dependents Dental Plan obtain care and file claims for benefits under the name and identification of an enrolled beneficiary; or when providers submit claims for services and supplies not rendered to enrolled beneficiaries; or when a participating provider bills the beneficiary for amounts over the dental plan insurer's determination of allowable charges; or fails to collect the specified patient copayment amount.

(ii) *Suspected fraud.* Any person, including the dental plan insurer, who becomes aware of a suspected fraud shall report the circumstances in writing, together with copies of any available documents pertaining thereto, to the Director, OCHAMPUS, or a designee, who shall initiate an official investigation of the case.

(h) *Appeal and hearing procedures*—(1) *General.* This action sets forth the policies and procedures for appealing decisions made by the dental plan adversely affecting the rights and liabilities of beneficiaries, participating providers, and providers denied the status of authorized provider under the Active Duty Dependents Dental Plan. An appeal under the Active Duty Dependents Dental Plan is an administrative review of program determinations made under the provisions of law and regulation. An appeal cannot challenge the propriety, equity, or legality of any provision of law and regulation.

(i) *Initial determination*—(A) *Notice of initial determination and right to appeal. (1)* The dental plan contractor shall mail notices of initial determinations to the Active Duty Dependents Dental Plan beneficiary at the last known address. For beneficiaries who are under 18 years of age or who are incompetent, a notice issued to the parent or guardian constitutes notice to the beneficiary.

(2) The dental plan contractor shall notify providers of an initial determination on a claim only if the providers participated in the claim or accepted assignment.

(3) Notice of an initial determination on a claim by the dental plan contractor shall be made in the contractor's explanation of benefits (beneficiary) or with the summary of payment (provider).

(4) Each notice of an initial determination on a request for benefit authorization, a request by a provider for approval as an authorized provider, or a decision to disqualify or exclude a provider, or a decision to disqualify or exclude a provider as an authorized provider under the Active Duty Dependents Dental Plan shall state the reason for the determination and the underlying facts supporting the determination.

(5) In any case when the initial determination is adverse to the beneficiary or participating provider or to the provider seeking approval as an authorized provider, the notice shall include a statement of the beneficiary's or provider's right to appeal the determination. The procedure for filing the appeal also shall be explained.

(B) *Effect of initial determination.* The initial determination is final, unless appealed in accordance with this section or unless the initial determination is reopened by OCHAMPUS or the dental plan contractor.

(ii) *Participation in an appeal.* Participation in an appeal is limited to any party to the initial determination, including OCHAMPUS, the dental plan contractor, and authorized representatives of the parties. Any party to the initial determination, except OCHAMPUS and the dental plan contractor, may appeal an adverse determination. The appealing party is the party who actually files the appeal.

(A) *Parties to the initial determination.* For purposes of these appeal and hearing procedures, the following are not parties to an initial determination and are not entitled to administrative review under this section.

(1) A provider disqualified or excluded as an authorized provider under the Active Duty Dependents Dental Plan based on a determination under another Federal or federally funded program is not a party to the OCHAMPUS action and may not appeal under this section

(2) A sponsor or parent of a beneficiary under 18 years of age or guardian of an incompetent beneficiary is not a party to the initial determination and may not serve as the appealing party, although such persons may represent the appealing party in an appeal.

(3) A third party other than the dental plan contractor, such as an insurance company, is not a party to the initial determination and is not entitled to appeal, even though it may have an indirect interest in the initial determination.

(4) A nonparticipating provider is not a party to the initial determination and may not appeal.

(B) *Representative.* Any party to the initial determination may appoint a representative to act on behalf of the party in connection with an appeal. Generally, the parent of a minor beneficiary and the legally appointed guardian of an incompetent beneficiary shall be presumed to have been appointed representative without specific designation by the beneficiary.

(1) The representative shall have the same authority as the party to the appeal, and notice given to the representative shall constitute notice required to be given to the party under this part.

(2) To avoid possible conflicts of interest, an officer or employee of the United States, such as an employee or member of a Uniformed Service, including an employee or staff member of a Uniformed Service legal office, or a OCHAMPUS advisor, subject to the exceptions in 18 U.S.C. 205, is not eligible to serve as a representative. An exception usually is made for an employee or member of a Uniformed Service who represents an immediate family member. In addition, the Director, OCHAMPUS, or designee, may appoint an officer or employee of the United States as the OCHAMPUS representative at a hearing.

(iii) *Burden of proof.* The burden of proof is on the appealing party to establish affirmatively by substantial evidence the appealing party's entitlement under law and this part to the authorization of the Active Duty Dependents Dental Plan benefits or approval as an authorized provider. Any cost or fee associated with the production or submission of information in support of an appeal may not be paid by OCHAMPUS.

(iv) *Late filing.* If a request for reconsideration, formal review, or hearing is filed after the time permitted in this section, written notice shall be issued denying the request. Late filing may be permitted only if the appealing party reasonably can demonstrate to the satisfaction of the dental plan contractor, or the Director, OCHAMPUS, or designee, that timely filing of the request was not feasible due to extraordinary circumstances over which the appealing party had no

practical control. Each request for an exception to the filing requirement will be considered on its own merits.

(v) *Appealable issue.* An appealable issue is required in order for an adverse determination to be appealed under the provisions of this section. Examples of issues that are not appealable under this chapter include:

(A) A dispute regarding a requirement of the law or regulation.

(B) The amount of the dental plan contractor-determined allowable charge since the methodology constitutes a limitation on benefits under the provisions of this part.

(C) Certain other issues on the basis that the authority for the initial determination is not vested in OCHAMPUS. Such issues include but are not limited to the following examples:

(*1*) Determination of a person's eligibility as an enrolled beneficiary in the Active Duty Dependents Dental Plan is the responsibility of the appropriate Uniformed Service. Although OCHAMPUS and the dental plan contractor must make determinations concerning a beneficiary's enrollment, ultimate responsibility for resolving a beneficiary's eligibility and enrollment rests with the Uniformed Services. Accordingly, a disputed question of fact concerning a beneficiary's enrollment or eligibility will not be considered an appealable issue under the provisions of this section, but shall be resolved in accordance with paragraph (c) of this section.

(*2*) The decision to disqualify or exclude a provider because of a determination against that provider under another Federal or federally funded program is not an initial determination that is appealable under this part. The provider is limited to exhausting administrative appeal rights offered under the Federal or federally funded program that made the initial determination. However, a determination to disqualify or exclude a provider because of abuse or fraudulent practices or procedures under the Active Duty Dependents Dental Plan is an initial determination that is appealable under this part.

(vi) *Amount in dispute.* An amount in dispute is required for an adverse determination to be appealed under the provisions of this section, except as set forth in the following:

(A) The amount in dispute is calculated as the amount of money the dental plan contractor would pay if the services and supplies involved in dispute were determined to be authorized benefits of the Active Duty Dependents Dental Plan. Examples of amounts of money that are excluded by this part from payments for authorized benefits include, but are not limited to:

(*1*) Amounts in excess of the dental plan contractor-determined allowable charge.

(*2*) The beneficiary's cost-share amounts for restorative services.

(*3*) Amounts that the beneficiary, or parent, guardian, or other responsible person has no legal obligation to pay.

(B) There is no requirement for an amount in dispute when the appealable issue involves a denial of a provider's request for approval as an authorized provider or the determination to disqualify or exclude a provider as an authorized provider.

(C) Individual claims may be combined to meet the required amount in dispute if all of the following exist:

(*1*) The claims involve the same beneficiary.

(*2*) The claims involve the same issue.

(*3*) At least one of the claims so combined has had a reconsideration decision issued by the dental plan contractor.

Note: A request for administrative review under this appeal process which involves a dispute regarding a requirement of law or regulation (paragraph (h)(1)(v)(A) of this section) or does not involve a sufficient amount in dispute (paragraph (h)(1)(vi) of this section) may not be rejected at the reconsideration level of appeal. However, an appeal shall involve an appealable issue and sufficient amount in dispute under these subsections to be granted a formal review or hearing.

(vii) *Levels of appeal.* The sequence and procedures of an Active Duty Dependents Dental Plan appeal are contained in the following:

(A) Reconsideration by the dental plan contractor.

(B) Formal review by OCHAMPUS.

(C) Hearing.

(2) *Reconsideration.* Any party to the initial determination made by the dental plan contractor may request a reconsideration.

(i) *Requesting a reconsideration*—(A) *Written request required.* The request must be in writing, shall state the specific matter in dispute, and shall include a copy of the notice of initial determination made by the dental plan contractor, such as the explanation of benefits.

(B) *Where to file.* The request shall be submitted to the dental plan contractor's office as designated in the notice of initial determination.

(C) *Allowed time to file.* The request must be mailed within 90 days after the date of the notice of initial determination.

(D) *Official filing date.* A request for a reconsideration shall be deemed filed on the date it is mailed and postmarked. If the request does not have a postmark, it shall be deemed filed on the date received by the dental plan contractor.

(ii) *The reconsideration process.* The purpose of the reconsideration is to determine whether the initial determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested or at the time the provider requested approval as an authorized provider. The reconsideration is performed by a member of the dental plan contractor's staff who was not involved in making the initial determination and is a thorough and independent review of the case. The reconsideration is based on the information submitted that led to the initial determination, plus any additional information that the appealing party may submit or the dental plan contractor may obtain.

(iii) *Timeliness of reconsideration determination.* The dental plan contractor normally shall issue its reconsideration determination no later than 60 days from the date of its receipt of the request for reconsideration.

(iv) *Notice of reconsideration determination.* The dental plan contractor shall issue a written notice of the reconsideration determination to the appealing party at his or her last known address. The notice of the reconsideration determination must contain the following elements:

(A) A statement of the issue or issues under appeal.

(B) The provisions of law, regulation, policies, and guidelines that apply to the issue or issues under appeal.

(C) A discussion of the original and additional information that is relevant to the issue or issues under appeal.

(D) Whether the reconsideration upholds the initial determination or reverses it, in whole or in part, and the rationale for the action.

(E) A statement of the right to appeal further in any case when the reconsideration determination is less than fully favorable to the appealing party and the amount in dispute is $50 or more.

(v) *Effect of reconsideration determination.* The reconsideration determination is final if either of the following exist:

(A) The amount in dispute is less than $50.

(B) Appeal rights have been offered, but a request for formal review is not received by OCHAMPUS within 60 days

of the date of the notice of the reconsideration determination.

(3) *Formal review.* Any party to the initial determination may request a formal review by OCHAMPUS if the party is dissatisfied with the reconsideration determination and the reconsideration determination is not final under the provisions of paragraph (b)(5) of this section. Any party to the initial determination made by OCHAMPUS may request a formal review by OCHAMPUS if the party is dissatisfied with the initial determination.

(i) *Requesting a formal review*—(A) *Written request required.* The request must be in writing, shall state the specific matter in dispute, shall include copies of the written determination (notice of reconsideration determination) being appealed, and shall include any additional information or documents not submitted previously.

(B) *Where to file.* The request shall be submitted to the Chief, Appeals and Hearings, OCHAMPUS, Aurora, Colorado 80045–6900.

(C) *Allowed time to file.* The request shall be mailed within 60 days after the date of the notice of the reconsideration determination being appealed.

(D) *Official filing date.* A request for a formal review shall be deemed filed on the date it is mailed and postmarked. If the request does not have a postmark, it shall be deemed filed on the date received by OCHAMPUS.

(ii) *The formal review process.* The purpose of the formal review is to determine whether the initial determination or reconsideration determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested, at the time the provider requested approval as an authorized provider, or at the time of the action by OCHAMPUS to disqualify or exclude a provider. The formal review is performed by the Chief, Appeals and Hearings, OCHAMPUS, or a designee, and is a thorough review of the case. The formal review determination shall be based on the information upon which the initial determination or reconsideration determination was based and any additional information the appealing party or the dental plan contractor may submit or OCHAMPUS may obtain.

(iii) *Timeliness of formal review determination.* The Chief, Appeals and Hearings, OCHAMPUS, or a designee, normally shall issue the formal review determination no late than 90 days from the date of receipt of the request for formal review by the OCHAMPUS.

(iv) *Notice of formal review determination.* The Chief, Appeals and Hearings, OCHAMPUS, or a designee, shall issue a written notice of the formal review determination to the appealing party at his or her last known address. The notice of the formal review determination must contain the following elements:

(A) A statement of the issue or issues under appeal.

(B) The provisions of law, regulation, policies, and guidelines that apply to the issue or issues under appeal.

(C) A discussion of the original and additional information that is relevant to the issue or issues under appeal.

(D) Whether the formal review upholds the prior determination or determinations or reverses the prior determination or determinations in whole or in part and the rationale for the action.

(E) A statement of the right to request a hearing in any case when the formal review determination is less than fully favorable, the issue is appealable, and the amount in dispute is $300 or more.

(v) *Effect of formal review determination.* The formal review determination is final if one or more of the following exist:

(A) The issue is not appealable. (See paragraph (1)(v) of this section.)

(B) The amount in dispute is less than $300. (See paragraph (h)(1)(vi) of this section.)

(C) Appeal rights have been offered, but a request for hearing is not received by OCHAMPUS within 60 days of the date of the notice of the formal review determination.

(4) *Hearing.* Any party to the initial determination may request a hearing if the party is dissatisfied with the formal review determination and the formal review determination is not final under the provisions of paragraph (c)(5) of this section.

(i) *Requesting a hearing*—(A) *Written request required.* The request shall be in writing, state the specific matter in dispute, include a copy of the formal review determination, and include any additional information or documents not submitted previously.

(B) *Where to file.* The request shall be submitted to the Chief, Appeals and Hearings, OCHAMPUS, Aurora, Colorado 80045–6900.

(C) *Allowed time to file.* The request shall be mailed within 60 days after the date of the notice of the formal review determination being appealed.

(D) *Official filing date.* A request for hearing shall be deemed filed on the date it is mailed and postmarked. If a request for hearing does not have a postmark, it shall be deemed filed on the date received by OCHAMPUS.

(ii) *The hearing process.* The hearing shall be conducted as a nonadversary, administrative proceeding to determine the facts of the case and to allow the appealing party the opportunity personally to present the case before an impartial hearing officer. The hearing is a forum in which facts relevant to the case are presented and evaluated in relation to applicable law, regulation, policies, and guidelines in effect at the time the care was provided or requested, or at the time the provider requested approval as an authorized provider.

(iii) *Timeliness of hearing*—(A) Except as otherwise provided in this section, within 60 days following receipt of a request for hearing, the Director, OCHAMPUS, or a designee, normally will appoint a hearing officer to hear the appeal. Copies of all records in the possession of OCHAMPUS that are pertinent to the matter to be heard or that formed the basis of the formal review determination shall be provided to the hearing officer and, upon request, to the appealing party.

(B) The hearing officer, except as otherwise provided in this section, normally shall have 60 days from the date of written notice of assignment to review the file, schedule and hold the hearing, and issue a recommended decision to the Director, OCHAMPUS, or designee.

(C) The Director, OCHAMPUS, or designee, may delay the case assignment to the hearing officer if additional information is needed that cannot be obtained and included in the record within the time period specified above. The appealing party will be notified in writing of the delay resulting from the request for additional information. The Director, OCHAMPUS, or a designee, in such circumstances, will assign the case to a hearing officer within 30 days of receipt of all such additional information or within 60 days of receipt of the request for hearing, whichever shall occur last.

(D) The hearing officer may delay submitting the recommended decision if, at the close of the hearing, any party to the hearing requests that the record remain open for submission of additional information. In such circumstances, the hearing officer will have 30 days following receipt of all such additional information including comments from the other parties to the hearing concerning the additional information to submit the recommended decision to the Director, OCHAMPUS, or a designee.

(iv) *Representation at a hearing.* Any party to the hearing may appoint a representative to act on behalf of the party at the hearing, unless such person currently is disqualified or suspended from acting in another Federal administrative proceeding, or unless otherwise prohibited by law, this part, or any other DoD regulation (see paragraph (a)(2)(ii) of this section). A hearing officer may refuse to allow any person to represent a party at the hearing when such person engages in unethical, disruptive, or contemptuous conduct, or intentionally fails to comply with proper instructions or requests of the hearing officer or the provisions of this part. The representative shall have the same authority as the appealing party, and notice given to the representative shall constitute notice required to be given to the appealing party.

(v) *Consolidation of proceedings.* The Director, OCHAMPUS, or a designee, may consolidate any number of proceedings for hearing when the facts and circumstances are similar and no substantial right of an appealing party will be prejudiced.

(vi) *Authority of the hearing officer.* The hearing officer, in exercising the authority to conduct a hearing under this part, will be bound by 10 U.S.C., Chapter 55 and this part. The hearing officer in addressing substantive, appealable issues shall be bound by the dental benefits brochure, policies, procedures, and other guidelines issued by the ASD(HA), or a designee, or by the Director, OCHAMPUS, or a designee, in effect for the period in which the matter in dispute arose. A hearing officer may not establish or amend the dental benefits brochure, policy, procedures, instructions, or guidelines. However, the hearing officer may recommend reconsideration of the policy, procedures, instructions or guidelines by the ASD(HA), or a designee, when the final decision is issued in the case.

(vii) *Disqualification of hearing officer.* A hearing officer voluntarily shall disqualify himself or herself and withdraw from any proceeding in which the hearing officer cannot give fair or impartial hearing, or in which there is a conflict of interest. A party to the hearing may request the disqualification of a hearing officer by filing a statement detailing the reasons the party believes that a fair and impartial hearing cannot be given or that a conflict of interest exists. Such request immediately shall be sent by the appealing party or the hearing officer to the Director, OCHAMPUS, or a designee, who shall investigate the allegations and advise the complaining party of the decision in writing. A copy of such decision also shall be mailed to all other parties to the hearing. If the Director, OCHAMPUS, or a designee, reassigns the case to another hearing officer, no investigation shall be required.

(viii) *Notice and scheduling of hearing.* The hearing officer shall issue by certified mail, when practicable, a written notice to the parties to the hearing of the time and place for the hearing. Such notice shall be mailed at least 15 days before the scheduled date of the hearing. The notice shall contain sufficient information about the hearing procedure, including the party's right to representation, to allow for effective preparation. The notice also shall advise the appealing party of the right to request a copy of the record before the hearing. Additionally, the notice shall advise the appealing party of his or her responsibility to furnish the hearing officer, no later than 7 days before the scheduled date of the hearing, a list of all witnesses who will testify and a copy of all additional information to be presented at the hearing. The time and place of the hearing shall be determined by the hearing officer, who shall select a reasonable time and location mutually convenient to the appealing party and OCHAMPUS.

(ix) *Dismissal of request for hearing—*(A) *By application of appealing party.* A request for hearing may be dismissed by the Director, OCHAMPUS, or a designee, at any time before the mailing of the final decision, upon the application of the appealing party. A request for dismissal must be in writing and filed with the Chief, Appeals and Hearings, OCHAMPUS, or the hearing officer. When dismissal is requested, the formal review determination in the case shall be deemed final, unless the dismissal is vacated in accordance with paragraph (h)(4)(ix)(E) of this section.

(B) *By stipulation of the parties to the hearing.* A request for a hearing may be dismissed by the Director, OCHAMPUS, or a designee, at any time before the mailing of notice of the final decision under a stipulation agreement between the appealing party and OCHAMPUS. When dismissal is entered under a stipulation, the formal review decision shall be deemed final, unless the dismissal is vacated in accordance with paragraph (h)(4)(ix)(E) of this section.

(C) *By abandonment.* The Director, OCHAMPUS, or a designee, may dismiss a request for hearing upon abandonment by the appealing party.

(*1*) An appealing party shall be deemed to have abandoned a request for hearing, other than when personal appearance is waived in accordance with paragraph (h)(4)(xi)(m) of this section, if neither the appealing party nor an appointed representative appears at the time and place fixed for the hearing and if, within 10 days after the mailing of a notice by certified mail to the appealing party by the hearing officer to show cause, such party does not show good and sufficient cause for such failure to appear and failure to notify the hearing officer before the time fixed for hearing that an appearance could not be made.

(*2*) An appealing party shall be deemed to have abandoned a request for hearing if, before assignment of the case to the hearing officer, OCHAMPUS is unable to locate either the appealing party or an appointed representative.

(*3*) An appealing party shall be deemed to have abandoned a request for hearing if the appealing party fails to prosecute the appeal. Failure to prosecute the appeal includes, but is not limited to, an appealing party's failure to provide information reasonably requested by OCHAMPUS or the hearing officer for consideration in the appeal.

(*4*) If the Director, OCHAMPUS, or a designee, dismisses the request for hearing because of abandonment, the formal review determination in the case shall be deemed to be final, unless the dismissal is vacated in accordance with paragraph (h)(4)(ix)(E) of this section.

(D) *For cause.* The Director, OCHAMPUS, or a designee, may dismiss for cause a request for hearing either entirely or as to any stated issue. If the Director, OCHAMPUS, or a designee, dismisses a hearing request for cause, the formal review determination in the case shall be deemed to be final, unless the dismissal is vacated in accordance with paragraph (h)(4)(ix)(E) of this section. A dismissal for cause may be issued under any of the following circumstances:

(*1*) When the appealing party requesting the hearing is not a proper party under paragraph (1)(ii)(A) of this section or does not otherwise have a right to participate in a hearing.

(*2*) When the appealing party who filed the hearing request dies, and there is no information before the Director, OCHAMPUS, or a designee, showing that a party to the initial determination who is not an appealing party may be prejudiced by the formal review determination.

(*3*) When the issue is not appealable (See paragraph (h)(1)(v) of this section.)

(*4*) When the amount in dispute is less than $300 (See paragraph (h)(1)(vi) of this section.)

(5) When all appealable issues have been resolved in favor of the appealing party.

(E) *Vacation of dismissal.* Dismissal of a request for hearing may be vacated by the Director, OCHAMPUS, or a designee, upon written request of the appealing party, if the request is received within 6 months of the date of the notice of dismissal mailed to the last known address of the party requesting the hearing.

(x) *Preparation for hearing*—(A) *Prehearing statement of contentions.* The hearing officer may on reasonable notice, require a party to the hearing to submit a written statement of contentions and reasons. The written statement shall be provided to all parties to the hearing before the hearing takes place.

(B) *Agency records*—(1) *Hearing officer.* A hearing officer may ask OCHAMPUS to produce, for inspection, any records or relevant portions of records when they are needed to decide the issues in any proceeding before the hearing officer or to assist an appealing party in preparing for the proceeding.

(2) *Appealing party.* A request to a hearing officer by an appealing party for disclosure or inspection of OCHAMPUS or the dental plan contractor records shall be in writing and shall state clearly what information and records are required.

(C) *Witnesses and evidence.* All parties to a hearing are responsible for producing, at each party's expense, meaning without reimbursement of payment by OCHAMPUS, witnesses and other evidence in their own behalf, and for furnishing copies of any such documentary evidence to the hearing officer and other party or parties to the hearing. The Department of Defense is not authorized to subpoena witnesses or records. The hearing officer may issue invitations and requests to individuals to appear and testify without cost to the Government, so that the full facts in the case may be presented.

(D) *Interrogatories and depositions.* A hearing officer may arrange to take interrogatories and depositions, recognizing that the Department of Defense does not have subpoena authority. The expense shall be assessed to the requesting party, with copies furnished to the hearing officer and other party or parties to the hearing.

(xi) *Conduct of hearing*—(A) *Right to open hearing.* Because of the personal nature of the matters to be considered, hearings normally shall be closed to the public. However, the appealing party may request an open hearing. If this occurs, the hearing shall be open, except when protection of other legitimate Government purposes dictates closing certain portions of the hearing.

(B) *Right to examine parties to the hearing and their witnesses.* Each party to the hearing shall have the right to produce and examine witnesses, to introduce exhibits, to question opposing witnesses on any matter relevant to the issue even though the matter was not covered in the direct examination, to impeach any witness regardless of which party to the hearing first called the witness to testify, and to rebut any evidence presented. Except for those witnesses employed by OCHAMPUS at the time of the hearing or records in the possession of OCHAMPUS, a party to a hearing shall be responsible, that is to say no payment or reimbursement shall be made by CHAMPUS for the cost or fee associated with producing witnesses or other evidence in the party's own behalf, or for furnishing copies of documentary evidence to the hearing officer and other party or parties to the hearing.

(C) *Burden of proof.* The burden of proof is on the appealing party affirmatively to establish by substantial evidence the appealing party's entitlement under law and this Regulation to the authorization of Active Duty Dependents Dental Plan benefits or approval as an authorized provider. Any part of the cost or fee associated with producing or submitting in support of an appeal may not be paid by OCHAMPUS.

(D) *Taking of evidence.* The hearing officer shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties to the hearing. Before taking evidence, the hearing officer shall identify and state the issues in dispute on the record and the order in which evidence will be received.

(E) *Questioning and admission of evidence.* A hearing officer may question any witness and shall admit any relevant evidence. Evidence that is irrelevant or unduly repetitious shall be excluded.

(F) *Relevant evidence.* Any relevant evidence shall be admitted, unless unduly repetitious, if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil or criminal actions.

(G) *Active Duty Dependents Dental Plan determination first.* The basis of the Active Duty Dependents Dental Plan determinations shall be presented to the hearing officer first. The appealing party shall then be given the opportunity to establish affirmatively why this determination is held to be in error.

(H) *Testimony.* Testimony shall be taken only on oath, affirmation, or penalty of perjury.

(I) *Oral argument and briefs.* At the request of any party to the hearing made before the close of the hearing, the hearing officer shall grant oral argument. If written argument is requested, it shall be granted, and the parties to the hearing shall be advised as to the time and manner within which such argument is to be filed. The hearing officer may require any party to the hearing to submit written memoranda pertaining to any or all issues raised in the hearing.

(J) *Continuance of hearing.* A hearing officer may continue a hearing to another time or place on his or her own motion or, upon showing of good cause, at the request of any party. Written notice of the time and place of the continued hearing, except as otherwise provided here, shall be in accordance with this part. When a continuance is ordered during a hearing, oral notice of the time and place of the continued hearing may be given to each party to the hearing who is present at the hearing.

(K) *Continuance for additional evidence.* If the hearing officer determines, after a hearing has begun, that additional evidence is necessary for the proper determination of the case, the following procedures may be invoked:

(1) *Continue hearing.* The hearing may be continued to a later date in accordance with paragraph (d)(11)(x) of this section.

(2) *Closed hearing.* The hearing may be closed, but the record held open in order to permit the introduction of additional evidence. Any evidence submitted after the close of the hearing shall be made available to all parties to the hearing, and all parties to the hearing shall have the opportunity for comment. The hearing officer may reopen the hearing if any portion of the additional evidence makes further hearing desirable. Notice thereof shall be given in accordance with paragraph (d)(8) of this section.

(L) *Transcript of hearing.* A verbatim taped record of the hearing shall be made and shall become a permanent part of the record. Upon request, the appealing party shall be furnished a duplicate copy of the tape. A typed transcript of the testimony will be made only when determined to be necessary by OCHAMPUS. If a typed transcript is made, the appealing party shall be furnished a copy without charge. Corrections shall be allowed in the typed transcript by the hearing officer

solely for the purpose of conforming the transcript to the actual testimony.

(M) *Waiver of right to appear and present evidence.* If all parties waive their right to appear before the hearing officer for presenting evidence and contentions personally or by representation, it will not be necessary for the hearing officer to give notice of, or to conduct a formal hearing. A waiver of the right to appear must be in writing and filed with the hearing officer or the Chief, Appeals and Hearings, OCHAMPUS. Such waiver may be withdrawn by the party by written notice received by the hearing officer or Chief, Appeals and Hearings, no later than 7 days before the scheduled hearing or the mailing of notice of the final decision, whichever occurs first. For purposes of this section, failure of a party to appear personally or by representation after filing written notice of waiver, will not be cause for finding of abandonment and the hearing officer shall make the recommended decision on the basis of all evidence of record.

(N) *Recommended decision.* At the conclusion of the hearing and after the record has been closed, the matter shall be taken under consideration by the hearing officer. Within the time frames previously set forth in this section, the hearing officer shall submit to the Director, OCHAMPUS, or a designee, a written recommended decision containing a statement of findings and a statement of reasons based on the evidence adduced at the hearing and otherwise included in the hearing record.

(*1*) *Statement of findings.* A statement of findings is a clear and concise statement of fact evidenced in the record or conclusions that readily can be deduced from the evidence of record. Each finding must be supported by substantial evidence that is defined as such evidence as a reasonable mind can accept as adequate to support a conclusion.

(*2*) *Statement of reasons.* A reason is a clear and concise statement of law, regulation, policies, or guidelines relating to the statement of findings that provides the basis for the recommended decision.

(5) *Final decision*—(i) *Director, OCHAMPUS.* The recommended decision shall be reviewed by the Director, OCHAMPUS, or a designee, who shall adopt or reject the recommended decision or refer the recommended decision for review by the Assistant Secretary of Defense (Health Affairs). The Director, OCHAMPUS, or designee, normally will take action with regard to the recommended decision within 90 days of receipt of the recommended decision or receipt of the revised recommended decision following a remand order to the Hearing Officer.

(A) *Final action.* If the Director, OCHAMPUS, or a designee, concurs in the recommended decision, no further agency action is required and the recommended decision, as adopted by the Director, OCHAMPUS, is the final agency decision in the appeal. In the case of rejection, the Director, OCHAMPUS, or a designee, shall state the reason for disagreement with the recommended decision and the underlying facts supporting such disagreement. In these circumstances, the Director, OCHAMPUS, or a designee, may have a final decision prepared based on the record, or may remand the matter to the Hearing Officer for appropriate action. In the latter instance, the Hearing Officer shall take appropriate action and submit a new recommended decision within 60 days of receipt of the remand order. The decision by the Director, OCHAMPUS, or a designee, concerning a case arising under the procedures of this section, shall be the final agency decision and the final decision shall be sent by certified mail to the appealing party or parties. A final agency decision under this paragraph (h)(5)(i) will not be relied on, used, or cited as precedent by the Department of Defense or the dental plan contractor in the administration of the Active Duty Dependents Dental Plan.

(B) *Referral for review by ASD(HA).* The Director, OCHAMPUS, or a designee, may refer a hearing case to the Assistant Secretary of Defense (Health Affairs) when the hearing involves the resolution of policy and issuance of a final decision which may be relied on, used, or cited as precedent in the administration of the Active Duty Dependents Dental Plan. In such a circumstance, the Director, OCHAMPUS, or a designee, shall forward the recommended decision, together with the recommendation of the Director, OCHAMPUS, or a designee, regarding disposition of the hearing case.

(ii) *ASD(HA).* The ASD(HA), or a designee, after reviewing a case arising under the procedures of this section may issue a final decision based on the record in the hearing case or remand the case to the Director, OCHAMPUS, or a designee, for appropriate action. A decision issued by the ASD(HA), or a designee, shall be the final agency decision in the appeal and a copy of the final decision shall be sent by certified mail to the appealing party or parties. A final decision of the ASD(HA), or a designee, issued under this paragraph (h)(5)(ii) may be relied on, used, or cited as precedent in the administration of the Active Duty Dependents Dental Plan.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 20, 1988.

[FR Doc. 88-1486 Filed 1-25-88; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-87-76]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the Memorial (US 80) bridge across the Wilmington River, mile 582.8 at Thunderbolt, Georgia, because the bridge has been replaced by a high level fixed span. Notice and public procedure have been omitted from this action due to removal of the bridge.

EFFECTIVE DATE: This rule becomes effective on January 26, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Pruitt, Bridge Administration Specialist, Seventh Coast Guard District, (305) 536-4103.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists at mile 582.8, Thunderbolt, Georgia.

Consequently, this action is considered to be non-major under Executive order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). This action will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of this rule are Mr. Gary Pruitt, Bridge Administration Specialist, Project Officer, and Lieutenant

Commander S.T. Fuger, Jr., Project Attorney.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

§ 117.353 [Amended]

2. Section 117.353(c) is removed.

Dated: January 6, 1988.

H.B. Thorsen,

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

[FR Doc. 88–1459 Filed 1–25–88; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

49 CFR Parts 301, 386, and 389

Rules of Practice and Rulemaking Procedures for Motor Carriers; Technical Amendments

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule; technical amendments.

SUMMARY: This document makes technical amendments to various sections of the Motor Carrier regulations: To make the handling of the delegations of authority relating to motor carrier safety consistent with other delegations of authority within the FHWA; to clarify the authority of the administrative law judge to dismiss a case; to reflect a recent internal agency reorganization with new responsibilities and terminology given to the Office of Motor Carrier Standards; to provide nomenclature changes; and to add new authority provided by the Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99–570, 100 Stat. 3207–170.

EFFECTIVE DATE: January 26, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–4049; or Ms. Julie A. White, Office of Chief Counsel, (202) 366–1353, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On October 27, 1986, the Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99–570, 100 Stat. 3207–170 (the Act), was signed into law by the President. This final rule adds the Act to the Sources of authority for Part 386, Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings, and Part 389, Rulemaking Procedures—Federal Motor Carrier Safety Regulations.

The FHWA has undergone an internal reorganization in which the functions of the Bureau of Motor Carrier Safety were transferred to the Office of Motor Carriers. This final rule removes § 301.60, which delegated certain authority of the Federal Highway Administrator to the Associate Administrator for Motor Carriers and to the Director, Bureau of Motor Carrier Safety. Delegations of authority relating to motor carrier safety are now contained in the FHWA Organization Manual. This change is consistent with delegations of other types of authority within the FHWA.

In addition, changes have been made to §§ 386.11(a) and 386.48 reflecting the transfer of authority concerning commencement of driver qualification proceedings and waiver of service from the Bureau of Motor Carrier Safety to the Office of Motor Carrier Standards. Section 386.54(b)(6) has been clarified to state explicitly the authority of the administrative law judge to dismiss a case where a hearing was requested. Changes have also been made to § 386.72 to reflect a transfer of authority concerning out of service orders from the Bureau of Motor Carrier Safety to the Office of Motor Carrier Safety Field Operations and the Regional Directors of Motor Carrier Safety. Part 389 has been changed to reflect that rulemaking procedures for the Federal Motor Carrier Safety Regulations are now conducted by the Federal Highway Administrator. Formerly, they were conducted by the Director, Bureau of Motor Carrier Safety.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The amendments in this document are primarily technical in nature and are needed solely to update the regulations to reflect current statutory changes as well as revisions relating to the agency's reorganization. For these reasons and since this rule imposes no additional burdens on the States or other Federal agencies, the FHWA finds good cause to make this regulation final without prior notice and opportunity for comments and without a 30-day delay in effective date under the Administrative Procedure Act. For the same reasons, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, this final rule is effective upon publication in the **Federal Register.**

Since the changes in this document are primarily nonsubstantive in nature and relate to internal agency management and procedures, the anticipated economic impact, if any, is minimal. Therefore, a full regulatory evaluation is not required. For the above reasons and under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this final rule will not have significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the FHWA hereby amends Chapter III of 49 CFR as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

List of Subjects in 49 CFR Parts 301, 386, and 389

Authority delegations (government agencies), Administrative practice and procedure, Civil forfeiture, Highways and roads, Motor carriers, Motor vehicle safety.

Issued on: January 19, 1988.

Robert E. Farris,

Deputy Administrator, Federal Highway Administration.

The FHWA hereby amends 49 CFR Chapter III as follows:

PART 301—[AMENDED]

1. The authority citation for Part 301 continues to read as follows:

Authority: 49 U.S.C. 104, 307, 501 *et seq.*, 1801 *et seq.*, 3101 *et seq.*, 10925, 10927 note; 42 U.S.C. 4917; 49 CFR 1.48.

§ 301.60 [Removed]

1a. Section 301.60 entitled "Delegations of authority relating to motor carrier safety" is removed from Part 301.

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS PROCEEDINGS

2. The authority citation for Part 386 is revised to read as follows:

Authority: Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99-570, 100 Stat. 3207-170 (49 U.S.C. 2701 *et seq.*); the Motor Carrier Safety Act of 1984, Pub. L. 98-554, 98 Stat. 2829 (49 U.S.C. 2501 *et seq.*); the recodification of Title 49, U.S. Code, Transportation, Pub. L. 97-449, 96 Stat. 2413 (49 U.S.C. 104(c)(2), 501 *et seq.*, 3101 *et seq.*); the Hazardous Materials Transportation Act, Pub. L. 93-633, 88 Stat. 2156 (49 U.S.C. 1801 *et seq.*); the Bus Regulatory Reform Act of 1982, Pub. L. 97-261, 96 Stat. 1121 (49 U.S.C. 10927, note); the Motor Carrier Act of 1980, Pub. L. 96-296, 94 Stat. 820 (49 U.S.C. 10927, note); 49 CFR 1.45, 1.48.

§ 386.1 [Amended]

3. Section 386.1 is amended by amending the first sentence to add as the first statute citation, the following words: "the Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99-570, 100 Stat. 3207-170 (49 U.S.C. 2701 *et. seq.*);".

§ 386.2 [Amended]

4. Section 386.2 is amended by amending the definition of "civil forfeiture proceedings" to add as the first statute citation, the following words: "the Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99-570, 100 Stat. 3207-170 (49 U.S.C. 2701 *et seq.*);".

§§ 386.11 and 386.48 [Amended]

5. Sections 386.11(a) and 386.48 are amended by substituting the words "Office of Motor Carrier Standards" for "Bureau of Motor Carrier Safety" each time they appear in the text.

§ 386.54 [Amended]

6. Section 386.54 is amended by revising paragraph (b)(6) to read as follows:

* * * * *

(b) * * *

(6) To consider and rule upon all procedural and other motions, including motions to dismiss, except motions which, under this part, are made directly to the Associate Administrator;

* * * * *

§ 386.72 [Amended]

7. In § 386.72 revise the first sentence of paragraph (b)(1) to read as follows:

* * * * *

(b)(1) Whenever it is determined that a violation of 49 U.S.C. 3102 or the Motor Carrier Safety Act of 1984 or the Commercial Motor Vehicle Safety Act of 1986 or a regulation issued under such section or Acts, or combination of such violations, poses an imminent hazard to safety, the Director, Motor Carrier Safety Field Operations or the Regional Directors of Motor Carrier Safety, or his or her delegate, shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations as provided by section 213(b) of the Motor Carrier Safety Act of 1984 and section 12012(d) of the Commercial Motor Vehicle Safety Act of 1986. (49 U.S.C. 521(b)(5)). * * *

8. In § 386.72 amend paragraph (b)(2) by adding the words ", and section 12012(d) of the Commercial Motor Vehicle Safety Act of 1986" before the period and after the last statute citation.

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

9. The authority citation for Part 389 is revised to read as follows:

Authority: Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99-570, 100 Stat. 3207-170 (49 U.S.C. 2701 *et seq.*); 49 U.S.C. 104 and 3102; sec. 30 of the Motor Carrier Act of 1980 (Pub. L. 96-296, 94 Stat. 820), as amended by sec. 108(b)(5) of Pub. L. 96-510, 94 Stat. 2767; sec. 406 of Pub. L. 97-424, 96 Stat. 2097; sec. 222 of Pub. L. 98-554, 98 Stat. 2846 (49 U.S.C. 10927 note); secs. 18 and 25(c) of the Bus Regulatory Reform Act of 1982 (Pub. L. 97-261, 96 Stat. 1102, 1120, 49 U.S.C. 10927 note); and 42 U.S.C. 4917.

§ 389.1 [Amended]

10. Section 389.1 is amended by adding the following citation "the Commercial Motor Vehicle Safety Act of 1986" after the words "the Motor Carrier Safety Act of 1984;".

§ 389.3 [Amended]

11. Section 389.3 is amended by amending the definition of "Act" by adding the following citations "the Motor Carrier Safety Act of 1984," and "the Commercial Motor Vehicle Safety Act of 1986" after the words "Act of 1980,"; removing the definitions of "Bureau" and "Director.", and adding a new definition to read "Administrator" means the Federal Highway Administrator.

* * * * *

§ 389.5 [Amended]

12. Section 389.5 is amended by substituting the word "Administrator" for the word "Director" and replacing the address at the end of the paragraph with the following: "Headquarters, Federal Highway Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590."

§ 389.7 [Amended]

13. Section 389.7 is amended by substituting the word "Administrator" for the word "Bureau".

§ 389.11 [Amended]

14. Section 389.11 is amended by substituting the word "Administrator" for the word "Director" and by adding the citation "the Commercial Motor Vehicle Safety Act of 1986" after the words "Motor Carrier Safety Act of 1984;".

§§ 389.13, 389.17, 389.25, 389.27, 389.29, and 389.31 [Amended]

15. Sections 389.13, 389.17(b), 389.25, 389.27(b), 389.29, and 389.31(a) are amended by substituting the word "Administrator" for the word "Director" each time that it appears in the text, and in § 389.31(b)(1) removing the address and replacing it with "Administrator, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590;".

§ 389.33 [Amended]

16. Section 389.33 is amended by: (1) Substituting the word "Administrator" for the word "Director" each time that it appears in the section, and (2) by revising paragraph (a) to read as follows:

(a) Unless the Administrator otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

* * * * *

§ 389.35 [Amended]

17. Section 389.35 is amended by substituting the word "Administrator" for the word "Director" each time that it appears in the text, and the address in paragraph (a) is revised to read "Administrator, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590".

§ 389.37 [Amended]

18. Section 389.37 is amended by substituting the word "Administrator" for the word "Director" each time that it appears in the text.

§ 389.38 [Removed]

19. Section 389.38 entitled "Saving provision" is removed from Part 389.

[FR Doc. 88-1394 Filed 1-25-88; 8:45 am]
BILLING CODE 4910-22-M

Proposed Rules

Federal Register
Vol. 53, No. 16
Tuesday, January 26, 1988

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

Commodity Credit Corporation

7 CFR Part 1421

Standards of Approval of Warehouses For Grain, Rice, Dry Edible Beans, and Seed

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of meeting.

SUMMARY: The Commodity Credit Corporation published a proposed rule in the **Federal Register** on October 8, 1987, regarding warehouse bonding. Several State warehouse licensing authorities expressed concern about the proposed rules and requested additional time to respond. Accordingly, a notice was published in the **Federal Register** on November 16, 1987, which extended the comment period for the proposed rule from November 9, 1987, to January 8, 1988. In addition, several State warehousing authorities have requested that a meeting be held in Washington, DC to further clarify and explain their concerns about the proposed rule. The Commodity Credit Corporation agrees that such a meeting would be beneficial for State warehousing authorities to explain their objections and concerns. The meeting would be held to further clarify and explain comments that were received during the comment period and would not reduce or detract from the positions listed in the submitted comments. The comment period will be further extended until February 12 to allow further written comments to be submitted after the meeting.

DATES: The meeting will be February 2, 1988 at 9:00 am.

ADDRESSES: South Agriculture Building, Room 4960, 12th and Independence SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven R. Closson, Chief, Storage Contract Branch, Warehouse Division, USDA, Room 5962–South Building, P.O. Box 2415, Washington, DC 20013, (202) 447–5647.

Signed at Washington, DC, on January 19, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88–1484 Filed 1–25–88; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 044CE, Notice No. 23–ACE–37]

Special Conditions; Modified Cessna Model 172 Series Airplanes With Porsche PFM3200No3 Engines Installed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for modified Cessna Model 172 Series Airplanes with Porsche PFM3200No3 Engines installed. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. The novel and unusual design features include the installation of the Porsche PFM3200No3 Engine, which incorporates an electronic ignition system and a unique single-lever power control, for which the applicable regulations do not contain adequate or appropriate airworthiness standards. This notice contains the additional airworthiness standards which the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATE: Comments must be received on or before February 25, 1988.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. 044CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 044CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Standards Office (ACE–110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action on this proposal. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 044CE." The postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the rules docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background

On February 19, 1987, Porsche Aviation Products, Inc., Rural Route 2, Box 118A, Galesburg Municipal Airport, Galesburg, Illinois 61401, made application to the FAA for supplemental type certificate (STC) approval of the design changes necessary to incorporate the Porsche PFM3200No3 Engine in the Cessna Model 172M, N, P, and Q airplanes. The Porsche engine installation incorporates an electronic ignition system and a single-level power control.

Type Certification Basis

Proposed Certification Basis: Part 23 through Amendment 23–7 for engine, fuel system and electrical system installation related items. For Noise Regulations, Part 36, Appendix F, through Amendment 36–12. Also, §§ 21.50 and 23.1529 with Appendix G for Instructions for Continued Airworthiness. For all other aspects of the airplane, the following:

For Models 172 through 172Q, Part 3 of the Civil Air Regulations, effective November 1, 1949, as amended by Amendment 3–12. In addition, for S/N 17271035 and on, § 23.1559, effective March 1, 1978; for S/N 17276260 and on, and all Model 172Q, § 23.1545(a), Amendment 23–23 effective December 1, 1978.

Equivalent Safety Findings for airspeed indicator and operating limitations as set forth in CAR 3.757 and 3.778(a) for serial numbers 17261445, 1721578, 17265685 and on.

Exemption No. 4838; and any special conditions that may result from this notice.

Discussion

Electronic ignition systems and single-lever power controls were not envisaged by the applicable CAR 3/Part 23 airworthiness standards. These features are considered novel and unusual design features and, as such, will require special conditions to provide adequate airworthiness standards.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101 do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

The Porsche PFM3200No3 Engine's electronic ignition system consists of two independent microprocessor controlled circuits, each of which is capable of maintaining full engine performance. Both of the engine ignition control circuits, including the microprocessors and software programming, may be susceptible to malfunction due to a single lightning strike on any part of the airplane.

The regulations incorporated by reference include standards for protection from ignition of fuel vapor by lightning (§ 23.954). The airworthiness standards do not, however, provide for protection of an electronic ignition system from the influence of lightning that is inherently provided by traditional designs, such as engine-driven magnetos. Therefore, a special condition is proposed.

The Porsche engine installation manual requires lighting protection for the ignition system if induced power spikes, caused by a lightning strike, exceed 600 volts and/or a duration time of 10 microseconds. The special condition will assure that the ignition system will be protected from induced power spikes in excess of the level for which the system was certificated.

The lightning current waveforms defined in the Society of Automotive Engineers (SAE), AE4L Committee Report AE4L–87–3, dated February 4, 1987, along with the voltage waveforms in Advisory Circular 20–53A, Protection of Aircraft Fuel Systems Against Fuel Vapor Ignition Due to Lightning, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depends upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, under these special conditions, tests (including tests on the completed airplane or an adequate simulation) and/or a verified analysis must be conducted in order to determine the resultant internal threat to installed systems. The individual systems must then be evaluated with this internal threat in order to determine their susceptibility to malfunction.

Airplane designs which utilize metal skins and mechanical command and control means have traditionally been shown to be immune from the effects of radio frequency (RF) energy from ground-based transmitters. With the trend toward increased power levels from these sources, plus the advent of space and satellite communications, coupled with electronic propulsion system components, the immunity of the airplane to RF energy must be established. Therefore, a special condition is proposed.

No universally accepted guidance to define the maximum energy level in which civilian airplane system installations must be capable of operating safely has been established. At this time, the FAA and other airworthiness authorities are working to establish an agreed upon level of RF energy representative of that to which the airplane will be exposed in service. These special conditions require that the airplane be evaluated under an interim standard for the protection of the electronic engine control system and its associated wiring harness, exclusive of airframe shielding.

The applicant has requested approval of a unique, single-level power control to provide simultaneous control of the engine throttle and propeller governor and, to a limited extent, the mixture. The single-level control incorporates standard industry components to drive both the throttle plate and propeller governor through one level. Two control cables are connected to the lever and routed to the throttle and governor. In addition, for takeoff power, the lever closes a switch which activates the fuel injection system to provide the best power mixture for the engine. For all other operations, the fuel injection system provides the best economy mixture automatically.

The FAA has determined that this unique design feature requires an evaluation of the effect on engine performance and control in the event of a control level system failure. A failure analysis of the interconnecting components would enhance confidence in the engine control system. Therefore, a special condition is proposed to require the single-lever system to have the same level of integrity and reliability as currently provide by the regulations for individual controls.

Conclusion

In view of the design features discussed above, the following special conditions are proposed for the propulsion system of the Model 172 Series Airplanes, with Porsche PFM3200 Engines installed, under the provisions of § 21.16 to provide a level of safety equivalent to that intended by the regulations incorporated by reference. This action is not a rule of general applicability and affects only the model/series of airplane identified in these special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these proposed special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the Cessna Model 172 Series Airplanes with Porsche PFM3200 Engines installed:

1. *Lightning Protection.* In addition to compliance with other applicable requirements relative to lighting protection, each electronic propulsion control system component, whose failure to function properly would prevent the continued safe flight and landing of the airplane, must be designed and installed to ensure that its operation and operational capabilities are not affected when the airplane is exposed to lightning.

2. *Protection from Unwanted Effects of Radio Frequency (RF) Energy.* In the absence of specific requirements for protection from the unwanted affects of RF energy, each electronic propulsion control system component, whose failure to function properly would prevent the continued safe flight and landing of the airplane, must be designed and installed to ensure that its operation and operational capabilities are not adversely affected when the airplane is exposed to externally radiated radio frequency.

3. *Propulsion Control System.* In addition to the requirements applicable to throttle, mixture and propeller controls, components of the propulsion control system, both airframe and engine manufacturer furnished, that affect thrust and that are required for continued safe operation, must be shown to have the level of integrity and reliability of the typical Cessna Model 172 Series propulsion control system with independent throttle, mixture, and propeller controls.

Issued in Kansas City, Missouri, on December 21, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88–1426 Filed 1–25–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 21 and 23

[Docket No. 043CE, Notice No. 23–ACE–36]

Special Conditions; British Aerospace Jetstream Series 3200, Model 3201 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the British Aerospace (BAe) Jetstream Series 3200, Model 301 Airplanes. The affected airplanes will have novel and unusual design features associated with turbopropeller engine installations incorporating automatic power reserve (APR) systems and alcohol-water injection (AWI) systems for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. This notice proposes the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations applicable to the affected airplanes.

DATE: Comments must be received by February 25, 1988.

ADDRESS: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 043CE, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No.043CE. Comments may be inspected in the Docket File between 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Oscar E. Ball, Aerospace Engineer, Standards Office (ACE–110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed based on comments received. All comments submitted will be available both, before and after the closing date, in the rules docket for examination by interested persons.

Background

On June 1, 1987, the British Civil Aviation Authority (CAA), on behalf of British Aerospace Scottish Division, made application for commuter category type certification of its Jetstream Series 3200, Model 3201 Airplanes. BAe plans to incorporate certain novel and unusual design features into the airplane for whcih the airworthiness regulations do not contain adequate or appropriate safety standards. The features include turbopropeller engines with automatic power reserve (APR) systems and alcohol-water injection (AWI) systems installed.

Type Certification Basis

The applicable airworthiness standards for import products are those regulations designated in accordance with § 21.29 and are known as the "type certification basis" for the airplane design. The certification basis for the BAe Jetstream Series 3200, Model 3201 Airplane is as follows: Federal Aviation Regulations § 21.29 and Part 23, effective February 1, 1965, including Amendments 23–1 through 23–34; exemptions as appropriate; SFAR No. 27, effective February 1, 1974, including Amendments 27–1 through 27–6; Part 36, effective December 1, 1969, including Amendments 36–1 through 36–12; and any special conditions which may result from this proposal.

Special conditions may be issued, and amended as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features. Special conditions, as appropriate, are issued in accordance with §§ 21.16 and 21.101(b)(2); and become part of the type certification basis in accordance with § 21.17(a)(2).

Discussion

The APR system is similar to the system presented for approval on the BAe Jetstream Series 3100, Model 3101 Airplanes. That system was the subject of the special conditions issued to BAe on December 17, 1984. They were published in the **Federal Register** on January 2, 1985 [52 FR 2]. The proposed special conditions for the Jetstream Series 3200, Model 3201 Airplane will be substantively equivalent to those issued for the Model 3101 Airplane.

The FAA recognizes that alcohol-water injection systems have been used for many years in both reciprocating and turbine engines. These systems have been approved through the limited standards of § 25.945 or on the basis of a "no hazard" installation on the airplane. In recent times, special conditions have been issued. As the system becomes necessary to airplane operation and performance; i.e., planned for use on every takeoff, it is incumbent upon the FAA to assure the safety and reliability of the system for everyday use.

The applicant proposes to use a mixture of methanol and water for the AWI fluid. According to Perry's Chemical Engineer's Handbook, Sixth Edition, McGraw-Hill, 1984, page 12–43,

methanol water mixtures are classed as a highly flammable fire hazard with a flash point of 75°F for a 30 percent solution of methanol in water; therefore, the FAA must consider the AWI fluid a flammable fluid and treat the AWI system the same way as the airplane fuel system. The proposed special conditions will provide airworthiness standards for the AWI system which parallel the fuel system requirements.

Conclusion

In view of the design features discussed above, the following special conditions are proposed for the BAe Jetstream Series 3200, Model 3201 Airplane under the provisions of § 21.16 to provide a level of safety equivalent to that intended by the regulations incorporated by reference. This action is not a rule of general applicability and affects only the model/series of airplane identified in these special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these proposed special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 121.28 and 11.49.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as part of the type certification basis for the British Aerospace Jetstream Series 3200, Model 3201 Airplane.

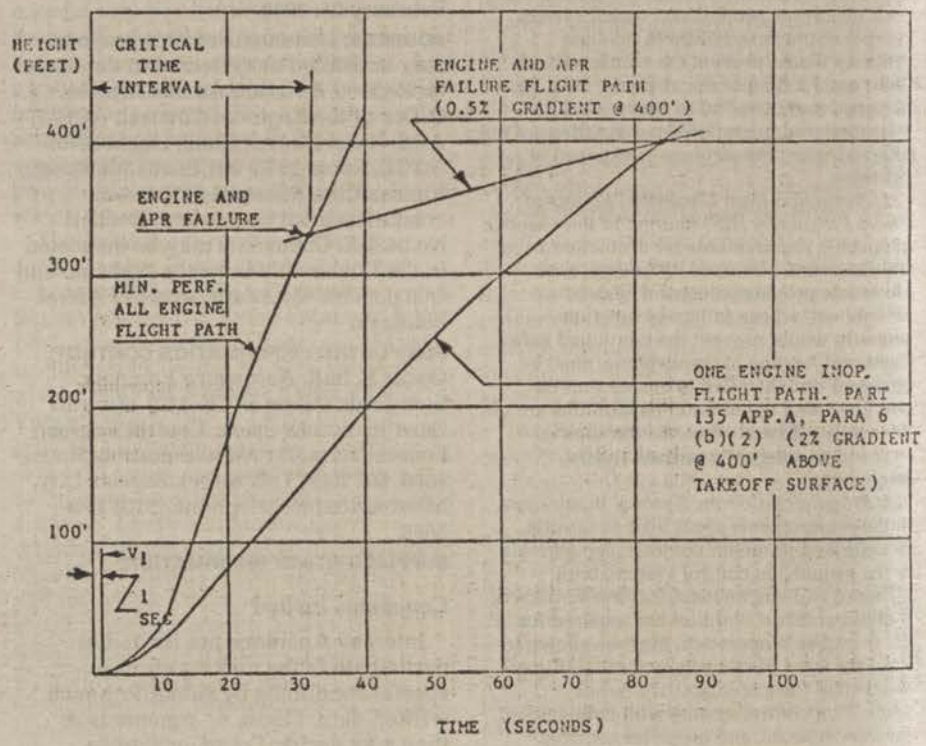
1. *Automatic Power Reserve (APR) System.*

(a) *General.* All references in this special condition to specific sections of Part 23 are to those sections in effect as defined in the certification basis for Jetstream Model 3201 Airplane.

(b) *Definitions*—(1) *Automatic Power Reserve System.* An automatic power reserve (APR) system is defined as the entire automatic system used only during takeoff, including all devices both mechanical and electrical that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines, including power sources, to achieve the scheduled power increase and furnish cockpit information on system operation.

(2) *Selected Takeoff Power.* Notwithstanding the definition of "Takeoff Power" in Part 1 of the Federal Aviation Regulations, "Selected Takeoff Power" means each power obtained from each initial power setting approved for takeoff under this special condition.

(3) *Critical Time Interval.* The critical time interval is that period starting at V_1 minus one second and ending at the intersection of the "engine and APR failure flight path" line with the "minimum performance all-engine flight path" line. The "engine and APR failure flight path" line intersects the "one-engine-inoperative flight path" line at 400 feet above the takeoff surface. The "engine and APR failure path" is based on the airplane's performance and must have a positive gradient of at least 0.5 percent at 400 feet above the takeoff surface. The critical time interval is illustrated in the following figure:



(For Illustration only - typical for 120K climb speed)

(c) *Reliability and Performance Requirements.* With the APR system and associated systems functioning normally, all applicable requirements of the certification basis previously established, except as provided in this special condition, must be met without requiring any action by the crew to increase power. In addition:

(1) It must be shown that, during the critical time interval, an APR failure which increases or does not affect power on either engine will not create a hazard to the airplane, or it must be shown that such failures are improbable.

(2) It must be shown that, during the critical time interval, there are no failure modes of the APR system that would result in a failure that will decrease the power on either engine, or it must be shown that such failures are extremely improbable.

(3) It must be shown that, during the critical time interval, there will be no failure of the APR system in combination with an engine failure, or it must be shown that such failures are extremely improbable.

(4) All applicable performance requirements must be met with an engine failure occurring at the most critical point during takeoff with the APR system functioning normally.

(d) *Power Setting.* The selected takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

(1) The power necessary to attain, at V_1, ninety (90) percent of the maximum takeoff power approved for the airplane for the existing conditions;

(2) That required to permit normal operation of all safety-related systems and equipment that are dependent upon engine power or power lever position; and

(3) That shown to be free of hazardous engine response characteristics when power is advanced from the selected takeoff power level to the maximum approved takeoff power.

(e) *Powerplant Controls—General.* (1) In addition to the requirements of § 23.1141, no single failure or malfunction or probable combination thereof, of the APR, including associated systems, may cause the failure of any powerplant function necessary for safety.

(2) the APR must be designed to:

(i) Provide a means to verify to the flightcrew before takeoff that the APR is in a condition to perform its intended function;

(ii) Apply power on the operating engine, following an engine failure during takeoff, to achieve the maximum attainable takeoff power without exceeding engine operating limits;

(iii) Provide that, following an engine failure with the APR operating normally, manual adjustments of the power levers by the crew shall not deactivate the APR;

(iv) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation; and

(v) Allow normal manual decrease or increase in power up to the maximum takeoff power approved for the airplane under the existing conditions through the use of power levers, as stated in § 23.1141(c), except as provided under paragraph (e)(3) below.

(3) For airplanes equipped with limiters which automatically prevent engine operating limits from being exceeded, other means may be used to increase the maximum level of power controlled by the power levers in the event of an APR failure. In this case, the means must be located on or forward of the power levers, must be easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and must meet the requirements of § 23.777 (a), (b), and (c).

(f) *Powerplant Instruments.* In addition to the requirements of § 23.1305—

(1) A means must be provided to indicate when the APR system is in the armed or ready condition.

(2) If the inherent flight characteristics of the airplane do not provide warning that an engine has failed, a warning system that is independent of the APR must be provided to give the pilot a clear warning of any engine failure during takeoff.

(3) Following an engine failure at V_1, or above, there must be means for the crew to readily and quickly verify that the APR system has operated satisfactorily.

2. *Alcohol-Water Injection (AWI) System*

(a) Each AWI system must meet the applicable requirements for the design of a fuel system as specified in § 23.951 (a) and (b), § 23.953, § 23.954, § 23.955 (a) and (c)(1), § 23.959, § 23.961, § 23.963 (a), (d), and (e), § 23.965 (a)(1), § 23.967 (a)(1) and (2), (b), (c), (d), and (e), § 23.696, § 23.971, 23.973 (a), (b), (c), § 23.975 (a)(1), (2), (3), (5), (6), and (7), § 23.977 (a)(2), (b), (c), and (d), § 23.991, § 23.993, § 23.994, § 23.995, § 23.997 (a), (b), (c), and (d), § 23.999. § 23.1141, § 23.1143 (a), (e), and (f), § 23,1189 (a) and (c), and § 23.1337 (a), (b)(1), (2), (3), and (4), and (c) of the Federal Aviation Regulations Part 23, dated February 1, 1965, as amended through Amendment 23–34 except as set forth in sections 2(b) through 2(c) of these special conditions.

(b) For AWI sysems, replace the word "fuel" with the words "AWI fluid" in all Part 23 sections listed in Special Conditions No. 2(a), as appropriate. In addition, certain Part 23 requirements listed in Special Condition No. 2(a) are reworded for AWI systems as follows:

(1) In § 23.955(a), General, replace "The ability of the fuel system to provide fuel at the rates specified in this section and at a pressure sufficient for proper carburetor operation must be shown * * *" with "The ability of the AWI system to provide AWI fluid at a flow rate and pressure sufficient for proper engine operation must be shown * * *"

(2) In § 23.955(c)(1), replace the entire paragraph with "This flow rate is required for each primary pump and each alternate pump, when the pump is supplied with normal voltage."

(3) In § 23.967(d), the first sentence is not applicable to AWI systems. In the second sentence, the phrase "of a single-engine airplane" is not applicable for AWI systems.

(4) In § 23.971, for AWI systems, replace paragraph (a) with "(a) Each AWI fluid tank must be drainable in the normal ground attitude." Replace paragraph (b) with "(b) Each drain required by paragraph (a) of this section must comply with the provisions of § 23.999(b)."

(5) In § 23.991, replace paragraph (a) with "(a) Primary Pumps. (1) The pump which supplies AWI fluid to the engines during normal (nonfailure) operation of the system is a primary pump. (2) It must be possible to bypass or flow AWI fluid through each primary pump." Replace paragraph (b) with "(b) Alternate provisions to permit continued supply of AWI fluid to the engines in the event of primary pump failure must be incorporated in the installation. Any pump used for that purpose will be an alternate pump. In paragraph (c), replace the word "normal" with the word "primary" and the word "emergency" with the word "alternate."

(6) In § 23.997, replace paragraph (d) with "(d) Have the capacity (with respect to operating limitations established for the AWI system) to ensure that AWI system functioning is not impaired, with the AWI fluid contaminated to a degree (with respect to particle size and density) that is greater than that established for proper operation of the AWI system," and add a new paragraph "(e) Be located with respect to any pressure or flowing sensing devices such that blockage of the filter will be detected by this device."

(7) In § 23.999, paragraph (b)(1) is not applicable to AWI systems.

(8) In § 23.1141(a), paragraphs (d) and (e) of 23.777, which are incorporated by reference, are not applicable to AWI systems.

(9) In § 23.1141(a), paragraph (e)(1) of § 23.1555, which is incorporated by reference is not applicable to AWI systems.

(10) In § 23.1143, as applies to the control and shutoff of the AWI system, add "In addition, there must be an indicator or warning light that indicates the proper operation or malfunction of the AWI system."

(11) In § 23.1337(b), for AWI systems, replace the lead-in paragraph with "There must be a means to indicate the quantity of AWI fluid in each tank. A dipstick, sight gauge, or an indicator, calibrated in either gallons or pounds, and clearly marked to indicate which scale is being used, may be used. In addition * * *"

(c) The AWI filler openings must be conspicuously marked at or near the filler cover with:

(1) The words "AWI fluid", and

(2) the capacity of the tank in either pounds or gallons consistent with other AWI system markings.

Issued in Kansas City, Missouri, on December 23, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88–1427 Filed 1–25–88; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR Parts 625 and 626

[FHWA Docket No. 87–16]

Pavement Policy for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) is requesting comments on a proposal to amend its regulation on pavement design policy and procedures. The revisions will require the States to establish a Pavement Management System (PMS). As part of its PMS each State Highway Agency (SHA) shall have a comprehensive process for the type selection and design of new, reconstructed and rehabilitated pavement structures. The revisions will replace the existing regulation to assure that appropriate practices and procedures are utilized by the States in order to promote safety and cost-effective pavement life cycles. Also, in order to be consistent with recently published policy on reference citations, the FHWA is proposing to redesignate the revised version of the publication entitled "AASHTO Interim Guide for Design of Pavement Structures, 1972," Chapter III Revised, 1981, which is currently incorporated by reference in 23 CFR 626.5(a), as a guide and reference. The revised publication is entitled "AASHTO Guide for Design of Pavement Structures," 1986.

DATE: Comments must be received on or before April 25, 1988.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 87–16, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT:
Mr. Norman J. Van Ness, Chief, Pavement Division, Office of Highway Operations, (202) 366–1324 or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 366–1383, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:
Pavement design policy and procedures for Federal-aid highway projects are contained in 23 CFR Part 626. The standards, policies, standard specifications, guides, and references (publications) that are approved by the FHWA for application on all Federal-aid highway projects are listed in 23 CFR Part 625. The standards, policies, and references for pavement design are contained in Part 626 and are generally cited in § 625.4(a)(11). Part 626 currently approves and incorporates by reference the publication entitled the "American Association of State Highway and Transportation Officials (AASHTO) Interim Guide for Design of Pavement Structures, 1972," Chapter III Revised 1981 for application on Federal-aid projects. On May 7, 1986 (51 FR 16830), the list of publications contained in Part 625 was revised and updated. In order to accurately reflect a publication list which differentiates between publications establishing Federal standards and publications containing guidance and information materials, a new section entitled "Guide and references" was added to Part 625. For those publications that provide informational and guidance material only, the incorporation by reference was withdrawn and the publication citation was placed in the new guide and reference section. By the May 7, 1986, final rule, an additional publication entitled "Guidelines on Pavement Management, AASHTO 1985" (Management Guide) was added as a reference at § 625.5(a)(7). To be consistent with the May 7, 1986, policy on reference citations, the FHWA proposes to add the 1986 publication entitled "AASHTO Guide for Design of Pavement Structures" (1986 Guide) to § 625.5, "Guides and references." The AASHTO views the Management Guide and the 1986 Guide as informational and guidance materials and not as technical policies and standards. The FHWA shares this view and proposes to revise Part 626.

The primary reasons for development of the 1986 Guide by AASHTO include: To incorporate the latest available research findings on design concepts; to include the latest design methods for pavement rehabilitation; and to provide a more definitive and complete document on pavement design. The 1986 Guide presents a wide range of pavement design principles and methodologies and addresses the many geographical, environmental, and climatic factors which influence the preparation of pavement designs. In addition, the 1986 Guide includes the latest technical data on pavement factors such as reliability, soil support/erosion, drainage, layer coefficients, traffic volume, etc.

Because of the number of regional and technical factors that are necessarily involved in the preparation and selection of particular pavement designs, the design engineers are provided sufficient flexibility in determining when and to what extent each of the factors is to be used. This flexibility allows the design engineer to consider design criteria within the context of local or regional needs, conditions, and past pavement performance.

The selection of a particular pavement design is intended to provide a pavement that adequately meets the existing and probable traffic needs and withstands environmental conditions in a manner conducive to highway safety. The design principles and methodologies contained in the Management Guide and the 1986 Guide provide a framework of design parameters which can be organized into a system approach to obtain consistent and rational design recommendations.

The FHWA's existing policy states that pavement design may be based on other procedures and practices of individual agencies that by past performance have proved to be satisfactory for the relative conditions. Since the Management Guide and the 1986 Guide are proposed to be cited as guidance and informational material, they will only be used as references for evaluating the adequacy of the pavement design. In order to assure that appropriate standards and procedures are utilized by the States to protect the Federal investment in safety and cost-effective pavement life cycles, the FHWA is proposing to revise existing policy. The FHWA is also proposing to require that State highway agencies (SHA's) establish a pavement management system (PMS) which includes the selection and design of new pavement structures and rehabilitation strategies. The SHA's would have the flexibility to establish a PMS to include methodologies and procedures recognizing the need for local variations by providing ranges of acceptable values and alternative procedures for use under varying conditions.

The FHWA believes that sufficient guidance and reference material are available upon which a PMS can be established by the SHA's without undue burdens being placed on the State's resources. The SHA's will be able to take advantage of available expertise contained in the Management Guide, the 1986 Guide, other appropriate design guides, and performance experience in the State. It is the intention of the FHWA that if this proposed policy is implemented, the pavement needs of the individual States can be met while maintaining consistency within geographical areas.

Section-by-Section Analysis

This analysis discusses the proposed revisions to 23 CFR Part 626.

Section 626.1 Purpose.

The proposed revision of this section adds the program elements of pavement management and federal-aid funding eligibility to the pavement design purpose statement.

Section 626.3 Definitions.

The current definitions for "Stage construction" and "Ultimate structural design" would be deleted as unnecessary. Definitions for "Analysis Period", "Life Cycle Cost", "Low Volume Road", "Pavement Design", "Pavement Maintenance", "Pavement Management", "Pavement Performance Period", "Pavement Reconstruction", "Pavement Rehabilitation" and "Pavement Structure" would be added to define elements of the Pavement Policy.

"Analysis Period" would be the period of time over which life cycle costs are assessed in the study of pavement design alternatives.

"Life Cycle Cost" would be all ownership and user costs necessary to provide a serviceable pavement over the analysis period. These include construction, maintenance, rehabilitation, traffic disruption costs, and salvage value, etc.

"Low-Volume Road" would be a road where the structural design is based on less than 1,000,000 18–Kip Equivalent Single Axle Loads (ESAL's).

"Pavement Design" would be that portion of the pavement management system which determines the material properties and the load carrying capacity of the pavement structure.

"Pavement Maintenance" would be the preservation of the pavement structure, including joints, drainage,

surface, and shoulders, as necessary for its safe and efficient utilization.

"Pavement Management" would encompass all the activities involved in the planning, design, construction, maintenance, evaluation, and rehabilitation of pavements. A pavement management system (PMS) is a set of tools or methods that assist decision-makers in finding optimum strategies for providing, evaluating and maintaining pavements in a serviceable condition.

"Pavement Performance Period" would be the period of time that a newly constructed, rehabilitated or reconstructed pavement will perform before reaching its terminal serviceability. Also referred to as service life.

"Pavement Reconstruction" would be construction of the equivalent of a new pavement structure which usually involves complete removal and replacement of the existing pavement structure including new and/or recycled materials.

"Pavement Rehabilitation" would be Resurfacing, Restoration, and Rehabilitation (3R) work undertaken to restore serviceability and to extend the service life of an existing facility. This may include partial recycling of the existing pavement, placement of additional surface materials or other work necessary to return an existing pavement, including shoulders, to a condition of structural or functional adequacy.

"Pavement Structure" would be a combination of a subbase, base course, and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

Section 626.5 Policy.

This section is being revised to provide for the requirement of establishing a Pavement Management System (PMS) to be implemented within a reasonable length of time, not to exceed 4 years from the effective date of this regulation. The PMS would be a procedure adopted by the SHA's which would include planning, construction, maintenance, rehabilitation, and evaluation criteria to assist decision-makers in finding the optimum strategy for providing, evaluating and maintaining pavements in a serviceable condition. The procedure adopted will provide for a system encompassing current technology and procedures, local conditions, materials, and performance experience.

This section will also be revised to include the citations to the reference publications discussed above (Management Guide and the 1986 Guide). The Guide will be recommended for guidance and reference to be used by the SHA's in the adoption of a PMS process. The FHWA will use the Guides and other appropriate criteria as a basis for approval of the SHA's PMS. Each SHA's PMS should be based on the concepts described in the Management Guide which includes the following components:

(1) Inventory

An inventory of the Federal-aid System with early emphasis on high volume roads should be established. This inventory should include all necessary data (materials, structural composition, etc.) to assure that location and composition of each section of pavement can be readily accessed.

(2) Database

There should be a collection, storage, processing, and retrieval of pavement condition and serviceability data for the Federal-aid System. This data should not only be adequate to satisfy determinations of need but should form the basis of an historical data bank which can be used for establishing criteria for design, construction, maintenance and/or rehabilitation of pavements.

(3) Assessment of Pavement Performance

A measurement should be made of the change in condition and/or serviceability over time. History of pavement performance indicating the serviceability of various materials, structure layers, and pavement composition for use in determining trends and capabilities of various design, construction, maintenance and/or rehabilitation standards should be accumulated.

(4) Network Needs Assessment

There should be an ability to provide current and projected network needs with consideration of budget and other constraints.

(5) Analysis

(a) There should be an ability to provide and analyze performance data over time for construction, reconstruction and rehabilitation alternates and strategies.

(b) There should also be an ability to analyze project alternatives and strategies including cost effectiveness and prioritization with consideration of restraints.

(c) An ability to provide and consider feedback should be included. Reliable performance data on rehabilitation techniques is necessary in the rehabilitation design process.

(6) Design

Design and rehabilitation strategies should be guided by the 1986 AASHTO "Guide for Design of Pavement Structures" or other practices and procedures that based on past performance have proven satisfactory in that locale.

It is recognized that most SHA's are well along in the development of a PMS or have a PMS in operation that includes the basic components listed above. The FHWA Division Administrator will work closely with those agencies that are in the early stages of developing a PMS to ensure compliance with the 4 year time frame for full implementation.

This section will further be revised to require each SHA to have a comprehensive process for the type selection and design of a new, reconstructed or rehabilitated pavement structure as part of its PMS. The SHA's are strongly encouraged to use the 1986 Guide in developing their comprehensive process for pavement type selection and pavement structure design. It will, however, be acceptable for SHA's to design pavement structures based upon other procedures and practices that by past performance have proven satisfactory for the pertinent conditions. If a SHA elects to use procedures other than AASHTO, the procedures will require FHWA approval. The FHWA will check or review pavement design in accordance with procedures approved for use by the SHA. No minimum pavement design period (now referred to as the performance period) will be specified for new construction.

The SHA's will be required to perform economic analyses that consider alternate design strategies. The principles of economic analyses dictate that all economic design strategies be analyzed over the same time period, now referred to as the analysis period. An analysis period of at least 30 years shall be used for all projects except that a shorter period may be used for low-volume roads. The minimum 30 year analysis period restarts with each planned project for new construction, reconstruction or major pavement rehabilitation work. The analysis period should include an initial performance period plus at least one rehabilitation strategy. If an existing pavement structure is sound and the cost to restore serviceability is minor when compared to the cost of a new pavement structure or major rehabilitation, a 30 year

analysis period may not be necessary and an exception may be granted.

An engineering and an economic analysis (life cycle cost) of an appropriate range of strategies shall be performed. For existing pavements the analysis should include both reconstruction and rehabilitation alternatives.

A final revision to this section includes a requirement that each project involving construction of a pavement shall have a skid resistant surface. Pavement rehabilitation and reconstruction projects shall also incorporate other cost-effective opportunities to enhance safety as required by 23 CFR 625.2.

Section 626.7 Eligibility.

This section is being revised to establish criteria to be used in determining eligibility of proposed projects. The current provisions contained in § 626.7, addressing the process of stage construction and Federal-aid Interstate Construction funding, are being deleted in their entirety. Stage construction, as previously defined, will no longer be used as a funding mechanism.

The first revision requires that the design of new and reconstructed pavements shall be a cost-effective solution based on the approved PMS. This cost-effective solution should include an analysis of the life cycle costs. It is essential that a SHA have sufficient data to document the life cycle costs and performance of each pavement type.

The second revision requires that the design of rehabilitated pavements shall provide for a minimum performance period of 8 years and be a cost-effective solution. The granting of exceptions is permissible when historical performance data and economic analyses indicate a lesser performance period would be appropriate. Any type of rehabilitation work may be eligible, providing that the SHA can document that the proposed design will perform satisfactorily over the performance period. As a minimum, this documentation should be supported by historical performance data.

The third revision requires that pavement maintenance not be eligible. The importance of adequate pavement maintenance of the pavement structure, including incidental items, is recognized as essential to satisfactory pavement performance. SHA's are expected to perform satisfactory maintenance with their own funds.

On April 24, 1985, the FHWA published a notice at 50 FR 16103 outlining the rulemaking procedures that would be taken to effectuate Federal adoption of the 1986 Guide, including an independent review by the FHWA and provisions for public comment. At the time of the April 24, 1985, notice, only a draft of the 1986 Guide had been completed by AASHTO. Since the publication for which the 1986 Guide was prepared to replace was incorporated by reference in Part 626, it was the intention of FHWA at that time to also incorporate by reference the 1986 Guide. As discussed above, the May 7, 1986, final rule announced a new publication citation policy which would differentiate between publications establishing Federal standards and publications containing guidance and informational material. Since the April 24, 1985, notice, the FHWA has determined that the 1986 Guide should be redesignated and placed in the "Guide and reference" section of § 625.5 and the incorporation by reference withdrawn. Although the incorporation by reference for the 1986 Guide is being withdrawn, the FHWA will still consider comments on the contents of the 1986 Guide as well as the Management Guide in the interests of public involvement and participation. Therefore, summaries of the 1986 Guide and Management Guide are being provided. Copies of the Guides may be purchased from AASHTO, 444 North Capitol Street NW., Suite 225, Washington, DC 20001 or copies of the Guides may be inspected in the Docket room as listed in the **"ADDRESS"** section above.

Summary of AASHTO Guide for Design of Pavement Structures (1986 Guide)

The following discussion provides a synopsis of the contents of the 1986 Guide and, as appropriate, any significant additions, revisions, or deletions made to the Interim Guide. The 1986 Guide outlines the procedures and guidelines for the structural design and rehabilitation of flexible (asphalt concrete) and rigid (portland cement concrete) highway pavements. The 1986 Guide is divided into four parts.

Part I is entitled "Pavement Design and Management Principles." Chapter 1 contains a general description of concepts and principles of pavement design as applied in the 1986 Guide. Chapter 2 introduces pavement management principles for the organization of design parameters into a systematic approach to obtain consistent and rational design recommendations. Chapter 3 examines the economic aspects of pavement design and rehabilitation. Chapter 4 provides a general description of the concept of pavement design reliability. Chapter 5 is a summary.

Part II is entitled "Pavement Design Procedures for New Construction and Reconstruction." Chapter 1 deals with introductory, background, and organization material while Chapter 2 identifies all the design requirements and inputs that will be required by the design procedure. Chapters 3 and 4 present the design methodology for highway pavements and low-volume roads, respectively.

Part III is entitled, "Pavement Design Procedure for Rehabilitation of Existing Pavements." Chapter 1 presents basic introductory, background, and organizational material and Chapter 2 discusses the alternative rehabilitation methods available and provides a basis for identifying feasible alternatives. Chapter 3 discusses the field data collection program. Chapter 4 discusses the details of evaluating rehabilitation methods other than overlays while Chapter 5 deals directly with the evaluation of overlay alternatives.

Part IV is entitled "Mechanistic-Empirical Design Procedures." The main objective of this part is to provide guidelines for use by agencies interested in developing and implementing improved and comprehensive design concepts for both new construction and for rehabilitation of in-service pavements.

The major changes which have been included in the 1986 Guide include the following considerations:

1. *Reliability*—The procedure for design of both rigid and flexible pavement provides a common method for incorporating a reliability factor into the design based on a shift in the design traffic.

2. *Soil support value*—The AASHTO test method T274 (resilient modulus of roadbed soils) is recommended as the definitive test for characterizing soil support. The soil property is recommended for use both with flexible and rigid pavement design.

3. *Layer coefficients (flexible pavements)*—The resilient modulus test has been recommended as the procedure to be used in assigning layer coefficients to both stabilized and unstabilized material.

4. *Drainage*—Provision has been made in the 1986 Guide to improve guidance in the design of subsurface drainage systems and for modifying the design equations to take advantage of improved performance attributed to good drainage design.

5. *Environment*—Improvements in the 1986 Guide have been made in order to account for the affects of environmental factors, e.g., forest heave, and swelling soils. Major emphasis is given to thaw

weakening and the effect that seasonal variations have on performance.

6. *Tied shoulder and widened lanes (rigid pavements)*—A procedure is provided for the design of rigid pavements with tied shoulders or widened outside lanes.

7. *Subbase erosion*—A method for adjusting the design equations to represent possible soil erosion under rigid pavements is provided.

8. *Life cycle costs*—Information has been added relative to economic analysis and comparisons of alternate designs based on life cycle costs. Present worth and/or equivalent uniform annual cost evaluations during a specified analysis period are recommended for making economic analyses.

9. *Rehabilitation*—A major addition contained in the 1986 Guide is the inclusion of a section on rehabilitation. Information is provided for rehabilitation with or without overlays.

10. *Pavement management*—Background information is provided regarding pavement management and the role of the 1986 Guide in the overall scheme of pavement management.

11. *Load equivalency values*—Load equivalency values have been extended to include heavier loads, more axles, and terminal serviceability levels of up to 3.0.

12. *Traffic*—Extensive information concerning methods for calculating equivalent single axle loads and specific problems related to obtaining reliable estimates of traffic loading are provided.

13. *Low volume roads*—A special category for design of pavements subjected to a relatively small number of heavy loads is provided in the design section.

14. *Mechanistic-Empirical design procedure*—The state of the knowledge concerning mechanistic-empirical design concepts is provided in the 1986 Guide. While the actual design procedures have not, as yet, been incorporated into the 1986 Guide, extensive discussion is provided as to how such methods could be applied in the future.

Summary of AASHTO Guidelines on Pavement Management (Management Guide)

The publication defines the terms associated with pavement management. Both the network and project levels of pavement management activities are discussed. An approach to improved pavement management is provided as well as steps for implementing a new or enhanced pavement management system.

The FHWA, through this notice of proposed rulemaking, is requesting comments on the proposed policy revision and effect on the Federal-aid highway program, as well as comments on specific elements of the criteria contained in the 1986 Guide and Management Guide. A final rule will be issued on the proposed policy revision after careful analysis and consideration of public comments received. If at the time of issuance of the final rule, the 1986 Guide or Management Guide contain material not acceptable to the FHWA, such material would be noted and excluded, and as required, alternative critieria will be adopted for use on Federal-aid projects.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The FHWA has also determined that the expected impact of these proposed revisions will be minimal. This determination is based on the fact that the SHA's will be required to merely formalize the pavement management processes that are currently being followed. In addition, the basic design criteria for pavement design remains essentially unchanged. The material contained in the publications "Guidelines on Pavement Management, AASHTO 1985" and the 1986 "AASHTO Guide for Design of Pavement Structures" is not in fact a policy or standard, but simply provides guidance for use at the discretion of the designer. The SHA's will be allowed to continue to use the same basic pavement design procedures based on past performances. Variations from present practices and technical criteria will not be significant. As stated in the preamble, the preparation of a Pavement Management System (PMS) should not place any undue burdens on the States' resources. As a practical matter, most SHA's have informally been establishing a procedure for the selection and design of new pavement structures and rehabilitation strategies. Therefore, a full regulatory evaluation is not required. For the same reasons and under the criteria of the Regulatory Flexibility Act (Pub. L. 96-354), it is hereby certified that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping requirements that are included in the proposed regulation will be submitted for approval to the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Parts 625 and 626

Design standards, Grant programs—transportation, Highways and roads, Reporting requirements.

In consideration of the foregoing, the Federal Highway Administration proposes to amend Chapter I of Title 23, Code of Federal Regulations, Parts 625 and 626 as set forth below.

Issued on: January 19, 1988.

Robert E. Farris,

Deputy Administrator, Federal Highway Administration.

The FHWA proposes to amend 23 CFR Part 625 and revise 23 CFR Part 626 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for Part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b).

2. In § 625.5, amend paragraph (a)(7) by adding a footnote number three at the end of the sentence and add a new paragraph (a)(11) to read as follows. The text of paragraph (a)(7) is reprinted without change.

§ 625.5 Guides and references.

* * * * *

(a) * * *

(7) Guidelines on Pavement Management, AASHTO 1985.[3]

* * * * *

(11) AASHTO Guide for Design of Pavement Structures, ASSHTO 1986.[3]

* * * * *

3. Part 626 is revised to read as follows:

PART 626—PAVEMENT POLICY

Sec.

626.1 Purpose.

626.3 Definitions.

626.5 Policy.

626.7 Eligibility.

Authority: 23 U.S.C. 101(e), 109, and 315; 49 CFR 1.48(b).

[3] American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington DC 20001.

§ 626.1 Purpose.

The purpose of this regulation is to set forth a policy to select, design and manage Federal-aid highway pavements in a cost-effective manner and identify pavement work eligible for Federal-aid funding.

§ 626.3 Definitions.

(a) *Analysis period.* The period of time over which life cycle costs are assessed in the study of pavement design alternatives.

(b) *Life cycle cost.* All ownership and user costs necessary to provide a serviceable pavement over the analysis period. These include construction, maintenance, rehabilitation, traffic disruption costs, and salvage value, etc.

(c) *Low-volume road.* A road where the structural design is based on 18-kip Equivalent Single Axle Loads (ESAL's) less than 1,000,000.

(d) *Pavement design.* That portion of the pavement management system which determines the material properties and the load carrying capacity of the pavement structure.

(e) *Pavement maintenance.* The preservation of the pavement structure, including joints, drainage, surface, and shoulders, as necessary for its safe and efficient utilization.

(f) *Pavement management.* Pavement management encompasses all the activities involved in the planning, design, construction, maintenance, evaluation, and rehabilitation of payments. A pavement management system (PMS) is a set of tools or methods that assist decision-makers in finding optimum strategies for providing, evaluating and maintaining pavements in a serviceable condition.

(g) *Pavement performance period.* The period of time that a newly constructed, rehabilitated or reconstructed pavement will perform before reaching its terminal serviceability. Also referred to as service life.

(h) *Pavement reconstruction.* Construction of the equivalent of a new pavement structure which usually involves complete removal and replacement of the existing pavement structure including new and/or recycled materials.

(i) *Pavement rehabilitation.* Resurfacing, Restoration, and Rehabilitation (3R) work undertaken to restore serviceability and to extend the service life of an existing facility. This may include partial recycling of the existing pavement, placement of additional surface materials or other work necessary to return an existing pavement including shoulders, to a condition of structural or functional adequacy.

(j) *Pavement structure.* A combination of a subbase, base course, and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

§ 626.5 Policy.

(a) *Pavement Management.* Each State highway agency shall have a pavement management system approved by FHWA. The pavement management system is to be implemented within a reasonable length of time, not to exeed 4 years from the effective date of this regulation.

(b) *Pavement design.* Each State highway agency shall have a comprehensive process for the type selection and design of a new, reconstructed or rehabilitated pavement structure as part of its pavement management system. An analysis period of at least 30 years shall be used for all projects except that a shorter period may be used for low-volume roads. An engineering and an economic analysis (life cycle cost) of an appropriate range of strategies shall be performed. For existing pavements the analysis should include both reconstruction and rehabilitation alternatives.

(c) *Safety.* Each project involving construction of a pavement shall have a skid resistant surface. Pavement rehabilitation and reconstruction projects shall also incorporate other cost-effective opportunities to enhance safety as required by 23 CFR 625.2.

§ 626.7 Eligibility.

(a) *New and reconstructed pavements.* To be eligible for Federal-aid funding, the design of new and reconstructed pavements shall be a cost-effective solution based on the approved pavement management system required by 23 CFR 626.5.

(b) *Rehabilitated (3R) pavements.* To be eligible for Federal-aid funding, the design of rehabilitated pavements shall provide for a performance period of a least 8 years and be a cost-effective solution based on the approved pavement management system required by 23 CFR 626.5. Longer performance periods should be provided on high type, high volume facilities especially where traffic disruption costs are significant. The FHWA may approve exceptions to the recommended performance periods when historical performance data and economic analyses indicate that a lesser performance would be appropriate.

(c) *Pavement maintenance.* Pavement maintenance as defined under 23 CFR 626.3(e) is not eligible for Federal-aid funding.

[FR Doc. 88-1397 Filed 1-25-88; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket S-016]

Electrical Safety-Related Work Practices; Correction

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Proposed rule; correction.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is correcting the proposed standard on electrical safety-related work practices published in the **Federal Register** on November 30, 1987 (52 FR 45530).

DATE: Written comments and requests for a hearing on these proposed rules must be postmarked by February 29, 1988.

ADDRESS: All comments, objections, and hearing requests should be sent in quadruplicate to Docket Officer, Docket S-016, Rm. N3670, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster; U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637; 200 Constitution Avenue NW.; Washington, DC 20210 (202-523-8148).

SUPPLEMENTARY INFORMATION: The **Federal Register** published on November 30, 1987, contained OSHA's proposed standard on electrical safety-related work practices. The notice, as published, contained some errors and inaccuracies. The following table lists these errors and the corresponding corrections.

There are also three clarifications that must be made with respect to the proposed miscellaneous changes as they were published in the **Federal Register.** The affected provisions of the General Industry Standards are: Sections 1910.67(b)(4), 1910.178(c)(2), and 1910.181(j)(5). In each case, the paragraph being proposed for amendment contains subparagraphs designated (i), (ii), (iii), etc. as well as an introductory paragraph at the level specified in the amendatory language. With respect to § 1910.178(c)(2), OSHA is proposing to change the introductory paragraph only; current paragraphs (c)(2)(i) through (c)(2)(xii) would remain unchanged. However, under the proposal, all of §§ 1910.67(b)(4) and 1910.181(j)(5) would be revised; current paragraphs (b)(4)(i) through (b)(4)(iv) of § 1910.67 and paragraphs (j)(5)(i) through (j)(5)(iv) of § 1910.181 would be deleted in the process.

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

This document is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911.

Signed at Washington, DC, this 19th day of January, 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

The following corrections are made to the proposed electrical safety-related work practices standard as it appeared in the **Federal Register** on November 30, 1987 (52 FR 45530-45549):

Section	FR page	Column and line	Correction
Preamble	45530	1st, 9th from bottom	Change "S-110" to "S-016."
Do	45531	3d, 2d from top	Add "s" to the word "line".
Do	45534	1st, 32d from top	Change the word "become" to "became".
Do	45538	1st, 6th from bottom	Change "§1910.333(c)3)(i)" to "§1910.333(c)(3)(i)".
Do	45539	2d, 6th from top	Change "contract" to "contact".
Do	45539	2d, 28th from bottom	do
Do	45539	3d, 10th from bottom	Change "too" to "to".
Do	45539	3d, 17th from bottom	Change "of" to "or".
Do	45539	3d, 27th from bottom	Change "opeation" to "operation".
Do	45540	1st, 12th from top	Change "this" to "defective".
Do	45540	1st, last 2 lines (before the footnote); and 2d, first 4 lines; and the following table.	Add to footnote 4.
Do	45542	1st, 2d paragraph, 2d and 3d sentences	Change to read "For example, of 208 serious electrical injury and death reports, Electricians accounted for 47, Line Installers/Cable Splicers accounted for 18, and Powerline Troubleshooters accounted for 38; these occupations were identified as high risk. Crane Operators accounted for 26 injuries and deaths; these were placed in the elevated risk category."
Do	45544	3d, 24th and 25th from bottom	Change these two lines to read "13. The introductory language in paragraph (c)(2) of § 1910.178 would be revised to read as follows:"
1910.252 (a)(6)(iv)(d)(2)Do	45545	1st, 32d from top	Delete second "electric".
1910.333(b)(2)(i)	45546	2d, 14th from bottom	"Deenergizing equipment" should not be in italics.
1910.333(b)(2)(ii)	45546	3d, 12th from top	"Application of locks and tags" should not be in italics.
1910.333(b)(2)(iv)	45547	1st, 16th from top	"Reenergizing equipment" should not be in italics.
1910.333(b)(2)(iv)	45547	1st, 19th from top	Change "re-energized" to "reenergized".
1910.333(c)(3)(i)	45547	2d, 10th from top	"Unqualified persons" should not be in italics.
1910.333(c)(3)(ii)	45547	2d, 35th from top	"Qualified persons" should not be in italics.
1910.333(c)(3)(iii)	45547	3d, after table	"Vehicular and mechanical equipment" should not be in italics.
1910.335(a)(1)	45549	1st, 15th from top	"Personal protective equipment" should be in italics.
1910.335(a)(2)(ii)	45549	2d, 14th from bottom	Change "unquilified" to "unqualified".
1910.339	45549	3d, 7th from bottom	Add the word "a" after the word "with".

[FR Doc. 88-1391 Filed 1-25-88; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1926

[Docket Nos. S-205, S-206 and S-207]

Safety Standards for Scaffolds, Fall Protection and Stairways and Ladders in the Construction Industry

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of informal public hearing; limited reopening of written comment period.

SUMMARY: This notice schedules an informal public hearing concerning the notices of proposed rulemaking which OSHA issued on November 25, 1986, on scaffolds (51 FR 42680), fall protection (51 FR 42718) and stairways and ladders (51 FR 42750) used in the construction industry. This notice also reopens the comment period for written responses to OSHA's proposal on fall protection (51 FR 42718) for the limited purpose of obtaining additional information on appropriate fall protection coverage for workers engaged in steel erection activities. The Agency will use that information in developing a separate proposed rule covering fall protection in steel erection.

DATES: The hearing will begin at 9:30 a.m. on March 22, 1988, in Washington, DC, and continue beyond that day as necessary.

A tentative schedule of appearances will be prepared and distributed to parties who have submitted notices of intention to appear, so parties will know more specifically when issues which concern them are to be raised at the hearing. Notices of intention to appear at the informal public hearing must be postmarked by March 8, 1988. Testimony and all evidence which will be offered into the hearing record must be postmarked by March 8, 1988. Written comments on the appropriate fall protection requirements for steel erection workers must be received by March 8, 1988.

ADDRESS: Four copies of the notice of intention to appear, and testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8615.

Four copies of the written comments on the appropriate fall protection requirements for steel erection workers must be sent to the Docket Office, Docket No. S-206, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3670, 200 Constitution Avenue NW., Washington, DC 20210.

The hearing will be held in the Auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8615. For additional information on how to submit notices of intention to appear see section on public participation below.

Proposal and Hearing Issues: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION: On November 25, 1986, OSHA published Notices of Proposed Rulemaking (NPRM) which proposed to revise the safety standards in 29 CFR Part 1926 for scaffolds (51 FR 42680), fall protection (51 FR 42718) and stairways and ladders (51 FR 42750) used in construction work. Interested persons were initially given until February 23, 1987, to comment on the proposal and to request a hearing.

The comment period and the time for requesting an informal public hearing were extended twice, first to June 1, 1987 (52 FR 5790) and then to August 14, 1987 (52 FR 20616). In the last notice (52 FR 20616), OSHA also clarified the scope of the proposed fall protection standard and its application to steel erection work.

On June 9-10, 1987, OSHA consulted with the Advisory Committee On Construction Safety And Health (ACCSH) regarding the issues raised in the NPRMs. OSHA had consulted with the ACCSH before publishing the proposals, but granted the committee's request for further consultation. In addition to making recommendations regarding the issues raised in the proposals, the ACCSH suggested certain changes to the proposed regulations. In particular, the ACCSH recommended that OSHA delete the sentence in proposed § 1926.500(a)(1) which would exempt employers from proposed Subpart M "when employees are only inspecting, investigating or assessing workplace conditions." OSHA intended the sentence in question to apply only *before* construction work had been

initiated at a workplace. The final rule will clarify the scope of any exemption.

OSHA is considering several ACCSH suggestions for inclusion in the revised standards. These suggestions are presented as hearing issues in order to generate additional information. OSHA will use that information to decide if it should adopt the ACCSH suggestions. These suggestions, discussed in more detail below, are summarized as follows:

- Locating scaffolds to avoid energized power lines contacting conductive materials used on the scaffolds (issue L–5);
- Banning the use of manila rope and plastic rope as top rails and midrails in scaffold guardrail systems (Issue L–10);
- Defining the terms "ramp" and "runway" which appear in proposed § 1926.451(c)(4) (Issue L–12);
- Specifying in proposed § 1926.451(f)(2)(v) that a scaffold canopy shall not be more than nine feet above the working surface of the scaffold (Issue L–13);
- Replacing the proposed requirement in § 1926.502(c)(2) that safety nets extend at least 15 feet out from the structure with the following requirement taken from draft ANSI A10.11, Safety Nets Used During Construction, Repair and Demolition Operations (Issue M–4);

Perimeter net systems shall extend outward horizontally from the outermost working surface of the structure a distance equal to or greater than the distance listed in the following table for the applicable fall distance:

Distance of working level to horizontal plane of personnel net	Minimum required horizontal distance of outer edge of net from the edge of the working surface (Feet)
Up to 5 feet	8
More than 5 feet to 10 feet	10
More than 10 feet	13

- Making the note in § 1926.1053(b)(7), which covers placement of ladders on slippery surfaces, part of the standard. (Issue X–1).

The comments and objections received during the comment period focused on several concerns regarding the provisions and the clarified scope of the proposed fall protection standards. In addition, OSHA received several requests for a public hearing. Accordingly, pursuant to section 6(b)(3) of the OSH Act, OSHA has scheduled an informal public hearing to begin on March 22, 1988, to receive testimony and other information pertinent to the issues raised in the hearing requests and at OSHA's initiative. Therefore, OSHA solicits testimony, with supporting information, on the issues presented below.

Subpart L

Issue L–1

In its NPRM of November 25, 1986, OSHA solicited publi comment (51 FR 42698, Issue Number 15) concerning proposed rule § 1926.460(d) which would require training and retraining, as necessary, for all employees using scaffolds. In particular, OSHA asked whether the training requirements should be less specific, following § 1926.21, or more specific than proposed. One commenter (Ex. 2–368) stated that employers should be required, at least, to furnish employees working on scaffolds with printed safety rules, require those employees to read the rules in the employer's presence and question the employees to see if they understand the rules. That commenter also suggested that "due to the extreme hazard associated with the use of suspended scaffolds, a written training program should be required" and that only employees certified to have completed the training program should be allowed to work on suspended scaffolds. Another commenter [Ex. 2–64], who requested a hearing, shared the belief that workers should be required to complete the appropriate training and "to carry a certificate or license which evidences completion" of the training, prior to working on suspended scaffolds. Also, one commenter (Exs. 2–2 & 2–34), who requested a hearing, recommended that OSHA establish a "licensing procedure" for employees who construct or install scaffolding higher than five feet. OSHA requests testimony and related information on any programs currently operating, whereby certificates or licenses are issued which indicate that employees have been adequately trained to erect, use or dismantle specific types of scaffolds.

Based on the comments discussed above, OSHA is considering whether or not it should change the proposal by adding a new section on certification to read as follows:

§ 1926.461 Certification.

(a) The employer shall certify that all employees who are erecting, maintaining and dismantling scaffolds, have been adequately trained in the appropriate

precautions and safe practices before they are allowed to perform any such scaffold work.

(b) The employer shall certify that the employee has been trained by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training or retraining was completed. The certification record shall be prepared at the completion of training and shall be maintained on file for the duration of the employee's employment. The certification record shall be made available upon request to the Assistant Secretary for Occupational Safety and Health or designee.

OSHA believes that such a certification would not require the collection of "information" as defined in 5 CFR 1320.7(k)(1). Therefore, OSHA has determined that, under the terms of the Paperwork Reduction Act and the implementing regulations, the above language would not impose a paperwork burden on the employer. OSHA solicits testimony and other information on the language set forth above.

Issue L–2

OSHA solicited comment (51 FR 42697, Issue Number 11) on the possibility of lowering the 10 foot (3.0 m) maximum height, where work would be allowed without fall protection. The 10 foot limit is in existing § 1926.451(a)(3) and in proposed § 1926.451(e)(1).

In response to this issue, the ACCSH, at its meeting on June 9, 1987, (Tr. 115–116), recommended that OSHA replace the 10 foot limit with a requirement to have fall protection on all scaffolds regardless of their height. OSHA solicits testimony and related information on the ACCSH recommendation.

Issue L–3

OSHA proposed (51 FR 42696) to delete the paragraph on "Elevated and Rotating Work Platforms" currently in § 1926.451(f) because this paragraph was redundant with the requirements of existing § 1926.556, "Aerial lifts," in Subpart N, "Cranes, Derricks, Hoists, Elevators, and Conveyors". Both current regulations incorporate ANSI A92.2–1969 by reference. One commenter (Ex. 2–368) stated that OSHA should not delete this section but should instead, "recognize" the ANSI A92 series of provisions currently under development, in a subsequent rulemaking proceeding. OSHA requests testimony and related information on this recommendation.

Issue L–4

In the proposal, (51 FR 42699, Issue Number 20) OSHA asked if the Agency should prohibit or regulate the use of stilts. The Agency also asked what regulation would be appropriate if the use of stilts were permitted. OSHA was aware that some contractors feel they may not presently use stilts because the existing construction standards do not specifically mention them (EX. 2–98). Many contractors, however, interpreted Issue 20 as the first step towards a ban on the use of stilts for construction work. As a result, OSHA received over 460 comments in favor of allowing the use of stilts as a means of extending a worker's reach to do painting, finishing and other work on ceilings and walls. The comments stated that prohibiting the use of stilts would cause employees to sustain injuries from over-reaching and falling from ladder, stools, platforms, homemade benches, boards, inverted buckets and other devices they would otherwise use to elevate themselves to do painting, finishing and ceiling work. Many of the comments also indicated that some safety provisions, such as debris control, are necessary.

On June 9, 1987, the Advisory Committee on Construction Safety and Health considered prohibiting the use of stilts in all situations. However, the ACCSH deferred any recommendations on Issue 20 pending the receipt of information on the use of stilts in construction (Tr. 158–161).

Most of the comments reflect concern that OSHA plans to ban the use of stilts. While OSHA concedes that the wording of Issue 20 may have caused some confusion, the Agency intended the Issue to generate input solely on the question of what regulations, if any, should be developed for the use of stilts. OSHA's concern is with the proper use of stilts in all situations and not just when they are used on top of another scaffold. Therefore, OSHA is considering whether or not, based on the comments received, the proposed standard should contain the following provisions:

(1) Employees shall be prohibited from wearing stilts on scaffolds except when the employees are on large area scaffolds.

(2) When employees are on large area scaffolds where guardrail systems meeting the requirements of § 1926.451(e) are used to provide fall protection, or the employees are on walking/working surfaces where guardrail systems meeting the requirements of Subpart M are used to provide fall protection, the guardrail system shall be increased in height an amount equal to the height of the stilts.

(3) The surfaces on which stilts are used shall be flat and free of pits, holes and obstructions, such as debris, as well as all other tripping and falling hazards.

(4) Stilts shall be properly maintained and all alterations of the original equipment shall be approved by the manufacturer.

OSHA would be particularly interested in information which would help it define a "large area scaffold" and any other information bearing on the

need to use stilts while on a scaffold and on the appropriate safety measures when using stilts. Therefore, OSHA solicits information on this issue.

Issue L–5

Proposed § 1926.451(d)(6) addresses the distance to be maintained when scaffolds are used in proximity to energized power lines. One commenter (Ex. 2–103) suggested that OSHA require the employer to notify the power company when scaffolds are to be erected near energized power lines and request the power company to de-energize the line or provide protective covering to prevent accidental contact. This suggestion is similar to OSHA's existing Subpart P requirement for employees to notify utility companies prior to excavating. Therefore, OSHA is considering whether or not, based on the comment received, the proposed standard should contain the following provision:

> Prior to erecting scaffolds in proximity to energized power lines, the employer shall notify the utility company of the proposed work, and shall request that the lines be de-energized or that protective coverings be provided to prevent accidental contact with the power line.

OSHA envisions that the above language would provide primary employee protection from electrical shock hazards. In that case, OSHA would need to clarify that proposed § 1926.451(d)(6) would apply if the affected employer could not obtain assurances from the utility company that the lines had been deenergized or adequately protected from contact. OSHA solicits testimony and other information on the above language.

In addition, on June 9, 1987, the ACCSH suggested (Tr. 204) that OSHA revise proposed § 1926.451(d)(6) to reflect concern that conductive material handled on a scaffold might contact exposed and energized lines even if the scaffold itself did not. To this end, the ACCSH recommended that proposed § 1926.451(d)(6) read as follows:

> Scaffolds shall not be erected, used or moved in such a way that they or any conductive material handled on them can come closer to exposed and energized power lines than as follows:***

OSHA solicits testimony and related information on the above language.

Issue L–6

Proposed § 1926.451(c)(5)(ii) requires that integral prefabricated scaffold rungs shall have a minimum rung length of 11½ inches. OSHA has received a comment (Ex. 2–303) which states that scaffolds with integral prefabricated scaffold rungs which are eight inches, rather than the proposed 11½ inches, "provide safe access [to a work platform] equivalent to that of a ladder." Further, the commenter states that the 8-inch rungs "provide surer footing and a better climb than does or can a ladder." OSHA is considering whether or not, based on this comment, § 1926.451(c)(5)(ii) should read as follows:

> (ii) Have sufficient rung length to permit safe use as a means of access. Rungs less than 11½ inches in length shall be used for access only and not as work platforms.

OSHA solicits testimony and other specific information on the above language.

Issue L–7

In proposed § 1926.451, OSHA sets forth "General requirements" which apply to all scaffolds, including scaffolds used in smoke stack hoists (stack hoist scaffolds). OSHA is aware of ongoing efforts to update the ANSI standard A10.22, Safety Requirements for Rope Guided and Non-Guided Workmen's Hoists, and is concerned that revised provisions may also be needed in the OSHA standard to address the hazards unique to stack hoist scaffolds. For example, the platform and suspension systems that currently are being designed for use with stack hoists require design factors as high as 8.5 for imposed work loads and hoisting loads, as opposed to the design factor of 4 required under proposed § 1926.451(a)(1). Therefore, the Agency solicits testimony and related information on the extent to which proposed § 1926.451 adequately covers stack hoists. OSHA also requests testimony and information on any stack hoist hazards, or other scaffold hazards, not addressed by the general requirements.

Issue L–8

OSHA received two comments (Ex. 2–367 and 2–368) which suggested that the Agency add language to proposed § 1926.452(c)(5) to specify that side brackets on fabricated frame scaffolds "shall be used to support personnel only and shall not be used for storage or support of materials." However, no reason was given for this suggested limitation. The Agency believes that this area is adequately covered by proposed § 1926.451(a)(1), which sets forth capacity requirements, and proposed § 1926.451(d)(1), which prohibits overloading. However, OSHA solicits testimony and supporting information as to whether the suggested change is necessary.

Issue L–9

OSHA received a comment (Ex. 2–23) which suggested that proposed § 1926.452(i), outrigger scaffolds, be revised to add requirements that outrigger beams "extend not more than 6 feet beyond the face of the building" and that "open sides of the scaffold platform over 7½ feet above the ground shall be enclosed by a standard guardrail." OSHA notes that the commenter cites ANSI A10.8–1977 in support of its suggestion. OSHA solicits testimony and related information regarding this suggestion.

Issue L–10

On June 9, 1987, the ACCSH (Tr. 212) recommended that OSHA bar the use of manila rope and plastic rope as top rails and mid rails of guardrail systems used on scaffolds. This recommendation reflected ACCSH concern that manila rope and plastic rope lose strength quickly when exposed to water and sun. OSHA solicits testimony and related information on this recommendation.

Issue L–11

A commenter (Ex. 2–585), who requested a hearing, has suggested that the number of injuries and fatalities from falls would be reduced by using "tightly hung netting, which is both layered and wrapped around the scaffold." The commenter noted that such netting "is inexpensive and can be used for several projects." The commenter also noted that such nets are "clearly visible at construction sites of any Japanese city." OSHA is not familiar with this practice and solicits testimony and related information regarding the use of netting on scaffolding systems.

Issue L–12

On June 9, 1987, the ACCSH suggested [Tr. 206] that OSHA add definitions for "ramp" and "runway" to the proposed standard so that the requirements of § 1926.451(c)(4) would be clearly understood. In particular, a member of the ACCSH recommended that the Agency use the definition of ramp developed by the National Safety Council. OSHA solicits testimony and related information on these suggestions.

Issue L–13

On June 9, 1987, the ACCSH noted [Tr. 214–15] that the requirements for a canopy which would protect employees below a scaffold from falling objects, as provided by proposed § 1926.451(f)(2)(v), did not specify how far above the employees the canopy could be. The

ACCSH was concerned that a canopy set at 15 or 20 feet would not protect employees below. Therefore, the ACCSH recommended that OSHA specify nine feet as the proper height for a canopy. OSHA solicits testimony and related information on this suggestion.

Subpart M

Issue M-1

Steel Erection

OSHA has consistently maintained that fall protection for steel erection workers, except to the extent expressly regulated by Subpart R, is covered by existing §§ 1926.28(a), 1926.104, 1926.105 and Subpart M. OSHA proposed, in the NPRM for fall protection (51 FR 42718), to consolidate the provisions of §§ 1926.104, 1926.105 and Subpart M into a revised Subpart M. That proposal would not have amended the specific fall protection provisions contained in Subpart R. The Agency has received comments which indicate some disagreement and confusion regarding the application of proposed Subpart M to steel erection work. OSHA recognizes that these comments are due, in part, to the manner in which the proposal and the second comment period extension notice discussed this issue.

In the NPRM (52 FR 42736), OSHA set forth two provisions under § 1926.500 *Scope, application and definitions applicable to this subpart*, that contained exceptions to the proposed rule for employees performing steel erection work. The first provision, § 1926.500(a)(2)(iv) reads as follows:

(2) Section 1926.501 sets forth those workplaces, conditions, operations, and circumstances for which fall protection shall be provided except as follows:

* * * * *

(iv) Requirements relating to fall protection for connectors performing steel erection and requirements for fall protection for workers on derrick and erection floors during steel erection, are provided in 29 CFR 1926.750–1926.752 (Subpart R).

The second provision, § 1926.500(a)(3)(iii) reads as follows:

(3) Section 1926.502 sets forth the requirements for the installation, construction, and use of fall protection required by § 1926.501 and by other subparts of Part 1926, except as follows:

* * * * *

(iii) Specific requirements for safety railings used on derrick and erection floor during steel erection are provided in 29 CFR 1926.750 (Subpart R).

The intent of these proposed provisions was only to exclude connectors, while they were making initial connections of steel framing members, from coverage under proposed Subpart M. Commenters, however, apparently did not clearly understand which of the employees engaged in steel erection activities were to be covered by proposed Subpart M and which were to continue to be covered by Subpart R, Steel Erection.

Indeed, one commenter (Ex. 2–17) stated what its view of proposed Subpart M would be if it were intended to apply to steel erection work and, also, what its position would be if Subpart M were not to cover steel erection work. Other commenters (Exs. 2–45 and 2–53) requested that OSHA more clearly state the extent to which proposed Subpart M applied to steel erection work.

In an effort to dispel the apparent confusion, OSHA included a discussion of the application of Subpart M to steel erection work when the Agency extended the comment period on Subpart M for the second time (June 2, 1987, 52 FR 20616). In that notice, OSHA stated that the Agency intended the proposed fall protection requirements published in the NPRM, to cover all workers engaged in skeleton steel erection activities, except for those workers identified as connectors who worked on the derrick or erection floor making initial connections of steel framing members. OSHA further stated that the provisions of Subpart R would continue to cover fall protection for connectors as well as requirements related to the erection process. As OSHA stated in that notice, and repeats here, Subpart R only addresses fall hazards at elevations of 30 feet and over; the Agency has consistently maintained that falls from under 30 feet for steel erection employees are regulated by §§ 1926.28(a) and 1926.105(a). Indeed, on July 18, 1983, OSHA issued an instruction to the field, STD 3–3.1, which outlined how the fall protection requirements in §§ 1926.28(a) and 1926.105(a) applied to construction work, including steel erection work.

OSHA observed in the June 2, 1987 notice that the Advisory Committee on Construction Safety and Health (ACCSH) at its meeting on March 31 and April 1, 1987, agreed that the general fall protection requirements should be the same for steel erection as for other construction activities. However, the ACCSH believed that an exemption was necessary for the making of initial connections of steel framing members. (Tr. 200). OSHA also noted that the Agency was considering draft proposed revisions of the fall protection provisions for connecters as part of an anticipated separate rulemaking effort for Subpart R.

OSHA again met with the ACCSH on August 4, 1987, to discuss draft Subpart R revisions which were based, in part, on suggestions voted at the April 1, 1987 ACCSH meeting. In particular, as discussed above, the ACCSH had recommended that OSHA apply the proposed Subpart M provisions, which would require fall protection for employees working six feet above lower levels, to steel erection employees, except connectors performing initial connection work. For connectors, ACCSH recommended that OSHA not require connectors or other steel erection employees moving from point to point (one work location to another) to tie-off (use body belt/harness systems). OSHA notes that under proposed Subpart M, the use of body belt/harness systems (tying off) is not the only option available for fall protection. The use of nets, in particular, is perfectly acceptable. While OSHA raised the existence of other such fall protection equipment with the Advisory Committee, the ACCSH declined to make any recommendations to OSHA regarding use of that fall protection equipment by steel erection workers (Tr. 134–144).

OSHA has received a comment (Ex. 2–145) from the Safety Advisory Committee for the Structural, Ornamental, Rigging and Reinforcing Steel Industry (SAC), a labor-management group with the following membership: The International Association of Bridge, Structural, and Ornamental Ironworkers; the National Erectors Association; the National Association of Reinforcing Steel Contractors; the National Association of Miscellaneous, Ornamental and Architectural Steel Contractors; the Specialized Carriers and Rigging Association; the National Constructors Association; Institute of the Ironworking Industry; American Institute of Steel Construction; and the Allied Building Metal Industry, Inc. The comment stated that connectors should not be required to tie off when erecting steel structures at heights of 30 feet or less. The SAC supported its suggestion as follows:

While the danger from falls obviously exists at heights above and below 30 feet, this committee feels that for purposes of establishing some type of arbitrary standard, 30 feet is appropriate.

Fall from a height greater than 30 feet may pose a significantly greater danger of severe injury which would justify the use of a safety belt or harness at those heights. At heights of 30 feet or less, we feel that the iron worker is generally more safe being unencumbered. Thirty feet is an arbitrary number which we feel sets a reasonable limit of allowing freedom of movement up to a certain height at which the potential degree of injury

increases and then justifies requiring the iron worker connector to be tied off.

The SAC also mentioned weather hazards, human error, and mechanical or equipment failures as considerations which supported its viewpoint.

The comment also stated that nets could not be used when working at 30 feet or less, explaining, as follows:

> * * * it is understood that the utilization of safety nets requires a secure framework for attachment. Therefore, until a framework has been completed and secured, safety nets could not be attached. A two story structure (30 feet) could not be reasonably secured for safety nets until the second story framework is adequately secured. The utilization of safety nets would not apply until the second story framework was secured or until additional stories were erected to which the safety net system could be attached below. It is also understood that erecting the perimeter framework above a 30 foot fall distance, or exposure to falls over 30 feet, would require the iron worker to either be tired off or be provided safety net protection. It is recognized by this Committee that the erection of safety nets under 30 feet, may expose the connectors who would erect the safety nets, to a falling hazard for a longer length of time than not using the net system at all. In these instances, rather than expose the safety net erector to a falling hazard, fall protection in the form of perimeter safety rail and temporary or permanent flooring would provide greater protection and less exposure to falls to the employees.

In addition to recommending an exemption from proposed Subpart M for initial connection work, the SAC recommended that workers moving from point to point be exempt from fall protection until they reached a position where they could tie-off or otherwise have fall protection, because, according to the SAC, "There is a great need for iron workers engaged in the erection, assembly, and placement of structural steel to have freedom of movement from one work place to another due to the particular requirements of the iron working industry." The SAC provided a list of 16 point-to-point tasks where it considered fall protection inappropriate. The list was as follows:

1. Bolt-up man moving from one location to another to install bolts.
2. Welder moving from one location to another to weld.
3. Plumb-up crew moving from one location to another to align the steel members.
4. Supervisors (foreman and pushers) moving from one location to another to supervise iron workers.
5. Decking crew moving from one location to another to place, align, and install metal decking.
6. Iron workers moving from one location to another to install perimeter safety cable.
7. Raising gang members moving from one location to another to erect structural steel.
8. Iron workers moving from one location to another to spread, lay or pick up and remove planking for temporary flooring.
9. Iron workers moving from one location to another to install and align grating and checker plate.
10. Iron workers moving from one location to another to install perimeter angles in connection with decking and bridge work.
11. Iron workers moving from one location to another to place, set and adjust sag rods or girts.
12. Iron workers moving from one location to another to distribute and align bar joists.
13. Iron workers moving from one location to another to install and weld bar joists.
14. Iron workers moving from one location to another to install stairways.
15. Iron workers moving from the top of a sheer wall or a column to another work area to install reinforcing steel.
16. Iron workers in a detail gang moving from one location to another in connection with various operations involved in steel erection.

OSHA solicits input regarding the exemption requests and supporting information submitted by the SAC.

In the course of this rulemaking, OSHA has become aware that some steel erection employers currently require all employees, including connectors, to tie off, except that connectors are permitted to disengage from their protective devices while a steel member is being hoisted into position. When the member is seated at its connection point, the connectors reattach their lifelines and complete the initial connection. OSHA observes that a public participant at the August 4, 1987 ACCSH meeting (Tr. 169) stated that he, as an employer, requires connectors to "tie off" when they're not in the actual process of connecting the iron. The participant explained that he felt connectors should be provided with body belts and lanyards for use when performing work where the probability of falling is increased. OSHA notes that one such case would be where a worker is using both hands to tighten a bolt and suddenly loses his balance. OSHA is particularly interested in learning more about the types and methods of fall protection currently available for steel erection.

OSHA has also received a comment (Ex. 2–137) which stated that:

> Connectors should have fall protection when fall hazards exceed six feet. Waist height perimeter cables can act as horizontal lifelines, can be installed without fall hazard and can provide continuous protection past intermediate columns.

OSHA would appreciate comment or testimony from any employers who are using this or similar systems.

OSHA has received comments in response to Issue #2 of the NPRM on fall protection (51 FR 42729) regarding the need for all protection during operations such as erecting roof trusses and steel erection on other than tiered buildings. For example, one commenter (Ex. 2–92) stated:

> Providing fall protection in these specific areas would be too restrictive and unfeasible. These operations require frequent movement, generally for short periods. Providing the necessary fall protection in these instances would expose those employees who are installing the equipment to more of a hazard than those doing the actual work.
>
> Additionally, any fall protection equipment installed becomes obstructive to the erection operation.

OSHA solicits testimony and related information on the concerns raised by the commenter. The Agency also requests testimony and information which would further help OSHA determine what fall protection would be appropriate during operations such as erecting roof trusses and steel erection on other than tiered buildings.

The rulemaking record developed to date indicates that the Agency needs more information in order to develop a revised standard covering fall protection for employees engaged in steel erection activities. The comments received to date have convinced the Agency to develop a separate proposed rule which will provide comprehensive coverage for fall protection in steel erection. OSHA intends, therefore, that the consolidation and revision of fall protection provisions in Subpart M not apply to steel erection and that the current fall protection requirements of Part 1926 continue to cover steel erection until the steel erection rulemaking is completed. Accordingly, in order to maintain coverage under existing fall protection standards pending completion of the separate steel erection fall protection rulemaking, OSHA plans to redesignate existing §§ 1926.104, 1926.105, 1926.107(b), 1926.107(c), 1926.107(f), 1926.500 (with Appendix A), 1926.501, and 1926.502 into Subpart R when the Agency issues the final rule for the Subpart M rulemaking. OSHA is raising questions in this hearing notice in order to obtain information regarding current and suggested fall protection practices in the steel erection industry. The Agency will use the information obtained through the hearing and the reopened comment period in drafting a notice of proposed rulemaking which would require the necessary fall protection for steel erection workers. OSHA solicits information, including testimony or written comments, regarding the fall protection necessary for steel erection employees.

OSHA seeks, in particular, input responsive to the following questions.

—What feasibility concerns arise regarding the use of ladders, scaffolds, or elevating and rotating work platforms, such as "cherrypickers," during erection work?
—How feasible is the use of waist height perimeter cables as horizontal lifelines or similar fall protection measures during steel erection work?
—As discussed above, OSHA has been asked to exempt connectors working at less than 30 feet from the proposed fall protection requirements. What basis is there for a 30 foot exemption?
—Is there a basis for setting the exemption at an elevation other than 30 feet? Please provide supporting information for any suggested alternative.
—How often do employees have to escape to lower levels to avoid incoming beams making contact with columns or employees? How do they escape?
—Have there been situations where framing members have been dislodged because they were struck by an incoming member? Please provide information on any such incidents.
—Do employers require employees to straddle ("coon") the beam when moving from point to point to perfom work? Please describe the circumstances where such stradding would take place.
—Do employers have employees descend to a lower level where they can walk on a safe surface from one work station to the next (point to point) and then ascend to the work location instead of "walking the beam" to reach the next work location, regardless of the distance between the two work locations? If not, should they?

Issue M–2

Concrete Erection

The Prestressed Concrete Institute (PCI) (Ex. 2–44) has commented that fall protection for employees erecting precast concrete components is "not appropriately covered by the proposed regulations" in Subpart M, because, according to the PCI, concrete erectors, like steel erectors, need more freedom of movement than proposed Subpart M would permit. Therefore, the PCI suggested that OSHA revise proposed Subpart M so that precast concrete erection would be regulated under Subpart R, Steel Erection. At the August 4, 1987 ACCSH meeting, a PCI representative reiterated the view that connectors of precast concrete members should be provided the same considerations as connectors of steel members, saying [Tr. 212]: "We feel that the erection procedures and exceptions for steel are basically the same as those for precast concrete * * * Basically, the fall protection of the steel connector, again, would be the same as that for the precast connector." The PCI subsequently submitted comments (Ex. 2–106 and 2–107) which requested that OSHA exempt concrete erectors from proposed leading edge protection requirements in Subpart M and that OSHA exempt hollow core slab erectors from perimeter protection provisions, except for those in proposed § 1926.502(h), Safety monitoring systems. OSHA requests testimony and other information on PCI's comments and suggestions.

Issue M–3

Manila and Plastic Rope

On June 9, 1987, the ACCSH recommended that OSHA add a ban on the use of manila rope or plastic rope for a toprail or midrail to the ban on the use of steel or plastic banding in proposed Subpart L, § 1926.451(e)(4)(xiii), which covers scaffold guardrail systems. ACCSH expressed concern that manila rope and plastic rope lose strength quickly when exposed to water and sun and, therefore, would be inappropriate for use as top rails or midrails of scaffold guardrail systems. While the ACCSH did not repeat this recommendation in the course of reviewing Subpart M, OSHA believes the same concern applies to guardrail systems covered by proposed Subpart M. Therefore, OSHA is considering whether or not, based on the ACCSH recommendation, it should revise the proposed fall protection requirements by adding the following language to paragraph (b) of § 1926.502; Manila rope and plastic rope shall not be used as top rails or midrails of guardrail systems. OSHA solicits testimony and other information on this language.

Issue M–4

On June 10, 1987, the ACCSH noted [Tr. 198–199] that proposed § 1926.502(c)(2), which requires that safety nets extend 15 feet out from the structure, was based on a National Bureau of Standards (NBS) study which indicated that nets which extended 8 feet from a structure, as required under existing § 1926.105(c)(1), would not catch someone who had fallen 25 feet. The ACCSH also noted that the ANSI A10.11 Committee, which develops consensus standards for safety nets, had reviewed the NBS study and determined that it was appropriate to account for the distance from the working surface to the net when setting new net requirements. The ACCSH agreed with the ANSI A10.11 Committee recommendation that nets be set out 8 feet when employees are 5 feet, or less, above them, 10 feet when the employees are between 5 and 10 feet above, and 13 feet when employees are more than 10 feet above the nets. Therefore, the ACCSH suggested that OSHA replace the proposed 15 foot requirement with the draft ANSI A10.11 provisions. The Agency requests testimony and related information on this recommendation

Subpart X

Issue X–1

At its June 10, 1987, meeting, the Advisory Committee on Construction Safety and Health (ACCSH) recommended that OSHA make the "Note" in proposed § 1926.1053(b)(7) a part of the standard. (Tr. 45). OSHA is considering, based on that recommendation, whether or not it should change the proposal to read as follows:

Section 1926.1053(b)(7) Ladders, including those with slip-resistant feet, shall not be used on slippery surfaces unless they are secured to prevent accidental displacement.

OSHA solicits comments on the above language.

Issue X–2

The ACCSH at its June 10, 1987, meeting raised an issue concerning the safe method of climbing ladders and the need for employees to carry materials or equipment up and down on ladders [Tr. 13–19]. An Advisory Committee member suggested that whenever a worker needed to take an item up a ladder, he should attach it to his belt or attach it to a hand line so that when he climbed to his work station he could pull it up. The committee thereupon recommended that "Nothing shall be carried up a ladder which will prevent the employee from having one hand on the ladder at all times." (Tr. 18). OSHA is considering, based on the ACCSH recommendation and existing § 1910.25(2)(vii) and 1910.26(3)(v), if it should change the proposal by adding new provisions to read as follows:

Section 1926.1053(b)(18) When ascending or descending a lader, the user shall be directed to face the ladder.

Section 1926.1053(b)(19) Employees shall be prohibited from carrying anything up or down a ladder which prevents the climber from having at least one hand on the ladder at all times.

OSHA solicits comments on the above language.

Public Participation

Comments

Written comments regarding the fall protection requirements appropriate for employees performing steel erection work must be postmarked by March 8, 1988. Four copies of these comments must be submitted to the Docket Office,

Docket No. S–206, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523–7894. All materials submitted will be available for inspection and copying at the above address.

Notice of Intention to Appear

Persons desiring to participate at the hearing must submit a notice of intention to appear, postmarked no later than March 8, 1988. The notice of intention to appear must contain the following information:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence and, if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing. Any party requesting more than 10 minutes for presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of testimony, including all documentary evidence to be presented at the hearing. These materials must be sent to Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8615, and must be postmarked no later than March 8, 1988.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact prior to the hearing.

Any party who has not substantially complied with the above requirement may be limited to a 10 minute presentation, and may be requested to return for questioning at a later time.

Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge, but will not be allowed to question witnesses.

Notices of intention to appear, testimony and evidence will be available for inspection and copying at the Docket Office, Docket Nos. S–205, S–206 and S–207, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3670, 200 Constitution Avenue NW., Washington, DC 20210 (202) 523–7894.

The hearing will commence at 9:30 a.m., on March 22, 1988, in the Auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. The hearing will begin with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the power:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. In the Judge's discretion, to question and permit questioning of any witness; and
6. In the Judge's discretion, to keep the record open for a reasonable time to receive written information and additional data, views and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The notices of proposed rulemaking will be reviewed in light of all testimony and written submissions received as part of the record, and a determination will be made to modify or not to modify the requirements based on the entire record of the proceeding.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. It is issued under section 6 of the Occupational Safety and Health Act (29 U.S.C. 655), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR Part 1911.

Signed at Washington, DC, this 19th day of January, 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 88–1392 Filed 1–25–88; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–660–87–4133–02]

43 CFR Part 3590

Solid Minerals (Other Than Coal) Exploration and Mining Operations; Streamlining Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the provisions of 43 CFR Part 3590 concerning solid minerals (other than coal) exploration and mining operations to streamline and clarify the existing regulations and to reduce the regulatory burden imposed on the public. The proposed rulemaking also would eliminate duplication of regulations which are currently under the authority of the Minerals Management Service. The proposed rulemaking makes no substantive changes to the existing regulations and requirements.

DATE: Comments should be submitted by March 28, 1988. Comments postmarked or received after the above date may not be considered in the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Paul Politzer, (202) 343–7722
or
Vance Greer, (202) 343–7722

SUPPLEMENTARY INFORMATION: The existing regulations in 43 CFR Part 3590 were promulgated in 1972 as 30 CFR Part 231, and were recodified in 1983 as 43 CFR Part 3570 as a result of the transfer of solid minerals operations functions from Minerals Management Service to the Bureau of Land Management under

Secretarial Order 3087. Finally, 43 CFR Part 3570 was renumbered 43 CFR Part 3590 by the final rulemaking on 43 CFR Group 3500 published in the **Federal Register** on April 12, 1986 (51 FR 15204).

Throughout the proposed rulemaking, minor changes would be made in the organization, sentence structure, and wording of the text for the purpose of clarifying and streamlining the regulations. Additionally, and for the same reasons, the proposed rulemaking would add definitions of the terms "established requirements" and "ultimate maximum recovery" to § 3590.0–5. The term "established requirements" would be defined to mean all legal conditions, such as, applicable laws and regulations, lease, license, or permit terms, conditions and special stipulations, approved mine or exploration plan requirements, and order issued by the authorized officer which are binding on the operator/lessee. The use of this term is designed to streamline the regulations by avoiding repetition of all the applicable legal requirements throughout the text. The term "ultimate maximum recovery" is not new since it was included in the existing regulations, but the term has not been previously defined. It would be defined in the proposed rulemaking, using as its basis standard industry operating practices.

The proposed rulemaking would expand Subpart 3592, entitled *Maps and Plans*. This expansion would not increase the amount of information requested from an operator/lessee because the Bureau of Land Management currently obtains this information during its mine plan review. However, the proposed rulemaking would add to the regulations a more detailed listing of mine plan requirements which will be used by the operator/lessee and will facilitate the transmittal of a complete mine plan package. The required material is necessary for use by the authorized officer in reviewing and approving the plan and is not expected to cause an undue burden on the operator/lessee. The provisions in the proposed rulemaking are designed to speed the mine plan approval process by ensuring that the operator/lessee is aware of the information that must be submitted, thus avoiding, in most cases, requests by the authorized officer for additional information. However, the proposed rulemaking would not remove the authority of the authorized officer to require any additional information deemed necessary for approval of a plan. The public is specifically requested to review and comment on the expanded requirements in Subpart 3592.

The principal author of this proposed rulemaking is W. Vance Greer, Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management and staff of the Office of the Solicitor, Department of the Interior.

If is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and 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.*).

It has been determined that the likely impact per lease of the changes made by this proposed rulemaking will not exceed the economic threshold set forth in Executive Order 12291. Further, the impact of the proposed rulemaking will impact equally all operators/lessees, whether large or small.

The information collection requirements contained in this proposed rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004—0142.

List of Subjects 43 CFR Part 3590

Administrative practice and procedure, Indian lands—mineral resources, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Federal land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix); section 3 of the Act of September 1, 1949 (30 U.S.C. 192c); the Act of June 30, 1950 (16 U.S.C. 508(b)); the Act of June 8, 1926 (30 U.S.C. 291–293); the Act of March 3, 1933, as amended (47 Stat. 1487); section 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 8, 1964 (16 U.S.C. 460n *et seq.*); the Act of November 8, 1965 (16 U.S.C. 90c *et seq.*); the Act of October 27, 1972 (16 U.S.C. 460dd *et seq.*); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2–460mm–4); the Independent Offices Appropriation Act (31 U.S.C. 9701); the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070); the Act of May 27, 1908 (35 Stat. 315); the Act of March 3, 1909, as amended (25 U.S.C. 396); the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q); the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*), it is proposed to amend Part 3590, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

1. Part 3590 is revised to read:

PART 3590—SOLID MINERALS (OTHER THAN COAL) EXPLORATION AND MINING OPERATIONS

Note: There are many leases and agreements currently in effect, and which will remain in effect, involving Federal leases which specifically refer to the United States Geological Survey, Minerals Management Service or the Conservation Division. These leases and agreements also often specifically refer to various officers as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 231 or specific sections thereof. Those references shall now mean the Bureau of Land Management of Minerals Management Service, as appropriate.

Subpart 3590—Solid Minerals (Other Than Coal) Exploration and Mining Operations—General

Sec.

3590.0–1 Purpose.
3590.0–2 Policy.
3590.0–3 Authority.
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3590.1 Confidentiality of information.
3590.2 Responsibility of the authorized officer.

Subpart 3591—General Obligations of Lessees, Licensees and Permittees

3591.1 General obligations of lessees, licensees and permittees.
3591.2 Forms and reports.

Subpart 3592—Maps and Plans

3592.1 Operating plans.
3592.2 Maps of underground workings and surface operations.
3592.3 Production maps.

Subpart 3593—Bore Holes and Samples

3593.1 Core or test hole, cores, samples, cuttings.

Subpart 3594—Mining Methods

3594.1 Ultimate maximum recovery.
3594.2 Support pillars.
3594.3 Boundary pillars and isolated blocks.
3594.4 Development on leased lands through adjoining mines as part of a mining unit.
3594.5 Minerals soluble in water; brines; minerals taken in solution.

Subpart 3595—Protection Against Mining Hazards

3595.1 Surface openings
3595.2 Abandonment of underground workings.

Subpart 3596—Waste From Mining or Milling

3596.1 Milling.
3596.2 Disposal of waste

Subpart 3597—Production Records

3597.1 Books of account.
3597.2 Value basis for royalty computation.
3597.3 Audits.

Subpart 3598—Inspection and Enforcement

3598.1 Inspection of underground and surface conditions; surveying, estimating and study.
3598.2 Issuance of orders.
3598.3 Service of notices, instructions and orders.
3598.4 Enforcement orders.
3598.5 Appeals.

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*); Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix); sec. 3 of the Act of September 1, 1949 (30 U.S.C. 192c); the Act of June 30, 1950 (16 U.S.C. 508(b)); the Act of June 8, 1926 (30 U.S.C. 291–293); the Act of March 3, 1933, as amended (47 Stat. 1487); sec. 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 8, 1964 (16 U.S.C. 460n *et seq.*); the Act of November 8, 1965 (16 U.S.C. 90c *et seq.*); the Act of October 27, 1972 (16 U.S.C. 460dd *et seq.*); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2 – 460mm–4); the Independent Offices Appropriation Act (31 U.S.C. 9701); the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070); the Act of May 27, 1908 (35 Stat. 315); the Act of March 3, 1981 (95 Stat. 1070); the Act of May 27, 1908 (35 Stat. 315); the Act of March 3, 1909, as amended (25 U.S.C. 396); the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q); the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*).

Subpart 3590—Solid Minerals (Other Than Coal) Exploration and Mining Operations—General

§ 3590.0–1 Purpose.

The purpose of the regulations in this part is to promote orderly and efficient prospecting, exploration, testing, development, mining and processing operations and production practices without waste or avoidable loss of minerals or damage to deposits; to encourage maximum recovery and use of all known mineral resources; to promote operating practices which will avoid, minimize or correct damage to the environment—land, water and air—and avoid, minimize or correct hazards to public health and safety; and to obtain a proper record and accounting of all minerals produced.

§ 3590.0–2 Policy.

The regulations in this part are administered under the direction of the Director, Bureau of Land Management.

§ 3590.0–3 Authority.

Authority for carrying out the regulations in this part is set out in § 3500.0–3 of this title, unless otherwise noted.

§ 3590.0–5 Definitions.

As used in this part, the term:

(a) "Established requirements" means applicable law and regulations, lease, license or permit terms, conditions and special stipulations; approved mine or exploration plan requirements; and orders issued by the authorized officer.

(b) "General mining order" means a formal numbered order issued in a rule-making procedure by the Department of the Interior which implements the regulations in this part and applies to mining and related operations.

(c) "Lessee" means any person, partnership, association, corporation or municipality to whom a mineral lease has been issued, which lease is subject to the provisions of this part, or an assignee or sublessee of such lease under a transfer approved by the Bureau of Land Management.

(d) "Licensee" means any person, partnership, association, corporation or municipality to whom a mineral license has been issued, which license is subject to the provisions of this part, or an assignee of such license under an assignment approved by the Bureau of Land Management.

(e) "Permittee" means any person, partnership, association, corporation or municipality to whom a mineral prospecting permit has been issued, which permit is subject to the provisions of this part, or an assignee of such permit under an assignment approved by the Bureau of Land Management.

(f) "Operator" means anyone authorized to conduct operations pursuant to the regulations in this part.

(g) "Reclamation" means the measures undertaken to bring about the necessary reconditioning or restoration of lands or water affected by exploration, mining, on-site processing operations or waste disposal in a manner which, among other things, will prevent or control on-site or offsite damage to the environment.

(h) "Ultimate maximum recovery" means that all portions of a leased Federal mineral deposit shall be mined, based on standard industry operating practices. The requirement to achieve ultimate maximum recovery does not in any way restrict the authorized officer's authority to ensure the conservation of the mineral resource and protection of the other resources.

§ 3590.0–7 Scope.

The regulations in this Part govern operations for the discovery, testing, development, mining and processing of all minerals under lease, license or permit issued for Federal lands under the regulations in Group 3500 of this title or Part 3140 of this title. For operations involving the extraction of hydrocarbon from tar sands or oil shale by in-situ methods utilizing boreholes or wells, Part 3160 of this title is applicable. These regulations also govern operations for all minerals on Indian tribal lands and allotted Indian lands leased under 25 CFR Parts 211 and 212. Further, when the regulations in this part relate to matters included in 25 CFR Part 215 or 216 the regulations in this Part shall be considered as supplemental and the regulations in 25 CFR Part 215 or 216 shall govern to the extent of any inconsistencies.

§ 3590.1 Confidentiality of information.

(a) Information obtained under this Part and on file shall be open for public inspection and copying during regular office hours, pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 522(b)) and Part 2 of this title. Upon termination of a lease, license, or permit, whether by expiration of its terms or otherwise, such information shall become available to the public.

(b) Information requested to be kept confidential under this section shall be clearly identified by the lessee, licensee or permittee by marking each page of documents submitted with the words "CONFIDENTIAL INFORMATION" at the top of the page. All pages so marked shall be physically separated from other portions of the submitted materials. All information not marked "CONFIDENTIAL INFORMATION" shall be available for public inspection.

(c) Confidential and privileged information obtained from a lessee under this Part on a restricted Indian lease shall be available only to the Tribe or allotted Indian lessor, their designated agent or authorized Department of the Interior officials. Such information shall not be made available to any other party without the express authorization of the Tribe or allotted Indian lessor.

§ 3590.2 Responsibility of the authorized officer.

The authorized officer is authorized under this part to regulate prospecting, exploration, testing, development, mining, processing operations, and reclamation authorized under this part. The duties of the authorized officer include, but are not limited to, the following:

(a) Inspection, at least quarterly, of leased, licensed or permitted lands where operations for discovery, testing, development, mining, reclamation, or processing of minerals are being conducted.

(b) Inspection and regulation of such operations for the purpose of preventing waste of mineral substances or damage to formations and deposits containing them, or damage to other formations, deposits or nonmineral resources affected by the operations.

(c) Inspecting exploration and mining operations to determine the adequacy of water management and pollution control measures for the protection and control of the quality of surface and groundwater resources and the adequacy of emission control measures for the protection and control of air quality.

(d) Requiring operators to conduct operations in compliance with established requirements, including the law, regulations, the terms and conditions of the lease, license or permit, the requirements of approved exploration or mining plans, notices and orders and special stipulations.

(e) Obtaining the records of production of minerals in order to verify that production reported for royalty purposes is an accurate accounting of minerals produced.

(f) Acting on applications for suspension of operations and production filed under § 3503.3 of this title and terminating such suspensions when conditions warrant. The authorized officer shall, upon request, assist in review of applications for suspension of operations and production on Indian lands which are filed under the provisions of 25 CFR Parts 211 and 212.

(g) Upon receipt of a written request for cessation or abandonment of operations, inspecting the operations and determining whether they are in compliance with established requirements. The authorized officer shall, in accordance with applicable procedures, consult with, or obtain the concurrence of the State or Federal agency having jurisdiction over the lands with respect to the surface protection and reclamation requirements of the lease, license or permit and the exploration or mining plan.

(h) Reporting any mineral trespass to the agency having administrative jurisdiction over the lands in accordance with Part 9230 of this title.

(i) Implementing General Mining Orders and issuing other orders, making determinations and providing concurrence and approvals as necessary to implement or assure compliance with the regulations in this part. Any verbal orders, approvals or concurrences shall be promptly confirmed in writing.

(j) Prior to approving an exploration or mining plan, the authorized officer shall consult with the agency having administrative jurisdiction over the lands with respect to the surface protection and reclamation aspects of such plan.

Subpart 3591—General Obligations of Lessees, Licensees and Permittees

§ 3591.1 General obligations of lessees, licensees and permittees.

(a) Operations for the discovery, testing, development, mining or processing of minerals shall conform to the established requirements.

(b) The surface of lease, license or permit lands shall be reclaimed in accordance with established requirements. Lessees, licensees or permittees shall take such action as may be needed to avoid, minimize or repair:

(1) Waste and damage to mineral-bearing formations;

(2) Soil erosion:

(3) Pollution of the air;

(4) Pollution of surface or ground water;

(5) Damage to vegetation;

(6) Injury to or destruction of fish or wildlife and their habitat;

(7) Creation of unsafe or hazardous conditions;

(8) Damage to improvements; and

(9) Damage to recreation, scenic, historical and ecological values of the lands.

(c) All operations conducted under this part shall be consistent with Federal and State water and air quality standards.

(d) When the authorized officer determines that a water pollution problem exists, the lessee, licensee or permittee may be required to maintain records of the use of water, quantity and quality of waste water produced and disposed of, including mine drainage discharge, process wastes and associated wastes. In order to obtain this information, the lessee, licensee or permittee may be required to install a suitable monitoring system.

(e) Inundations, fires, fatal accidents, accidents threatening damage to the mine, the lands or the deposits, or conditions which could cause water pollution shall be reported promptly to the authorized officer. The notice required by this section shall be in addition to any notice or reports required by 30 CFR Part 56 or 57, or other applicable regulations.

§ 3591.2 Forms and reports.

The operator shall submit production and royalty forms and reports as prescribed by the Service.

Subpart 3592—Maps and Plans

§ 3592.1 Operating plans.

(a) Before conducting any operations under a lease, license or permit, the operator shall submit to the authorized officer an exploration or mining plan which shall show in detail the proposed exploration, prospecting, testing, development or mining operations to be conducted. Exploration and mining plans shall be consistent with and responsive to the requirements of the lease, license or permit for the protection of nonmineral resources and for the reclamation of the surface of the lands affected by the operations. The authorized officer shall consult with any other agency involved, and shall promptly approve the plans or indicate what modifications of the plans are necessary to conform to the provisions of the established requirements. No operations shall be conducted except as provided in an approved plan.

(b) The exploration plan shall be submitted in accordance with mineral specific regulations in Group 3500 of this title (See Subparts 3512, 3522, 3532, 3542, 3552 and 3562) and in accordance with 25 CFR 216.6 for Indian lands.

(c) The lessee/operator shall submit 2 copies of the mining plan to the authorized officer for approval. The mining plan shall contain, at a minimum, the following:

(1) Names, addresses and telephone numbers of those responsible for operations to be conducted under the approved plan to whom notices and orders are to be delivered, names and addresses of lessees, Federal lease serial numbers and names and addresses of surface and mineral owners of record, if other than the United States;

(2) A general description of geologic conditions and mineral resources, with appropriate maps, within the area where mining is to be conducted;

(3) Two copies of a suitable map or aerial photograph showing the topography, the area covered by the lease, the name and location of major topographic and cultural features and

the drainage plan away from the affected area;

(4) A statement of proposed methods, of operating, including a description of the surface or underground mining methods, the proposed roads, the size and location of structures and facilities to be built, mining sequence, production rate, estimated recovery factors, stripping ratios and number of acres to be affected;

(5) An estimate of the quantity and quality of the mineral resources, proposed cutoff grade and, if applicable, proposed blending procedures for all leases covered by the mining plan;

(6) An explanation of how ultimate maximum recovery of the resource will be achieved for the Federal lease(s). If a mineral deposit, or portion thereof, is not to be mined or is to be rendered unminable by the operation, the operator/lessee shall submit appropriate justification to the authorized officer for approval;

(7) Appropriate maps and cross sections showing:

(i) Federal lease boundaries and serial numbers;

(ii) Surface ownership and boundaries;

(iii) Locations of existing and abandoned mines;

(iv) Typical structure cross sections;

(v) Location of shafts or mining entries, strip pits, waste dumps, and surface facilities; and

(vi) Typical mining sequence, with appropriate timeframes;

(8) A narrative which addresses the environmental aspects associated with the proposed mine which includes, at a minimum, the following:

(i) An estimate of the quantity of water to be used and pollutants that may enter any receiving waters;

(ii) A design for the necessary impoundment, treatment or control of all runoff water and drainage from workings to reduce soil erosion and sedimentation and to prevent the pollution of receiving waters;

(iii) A description of measures to be taken to prevent or control fire, soil erosion, subsidence, pollution of surface and ground water, pollution of air, damage to fish or wildlife or other natural resources and hazards to public health and safety; and

(9) A reclamation schedule and the measures to be taken for surface reclamation which will ensure compliance with the established requirements. In those instances in which the lease requires the revegetation of an area affected by operations, the mining plan shall show:

(i) Proposed methods of preparation and fertilizing the soil prior to replanting;

(ii) Types and mixtures of shrubs, trees or tree seedlings, grasses or legumes to be planted; and

(iii) Types and methods of planting, including the amount of grasses or legumes per acre, or the number and spacing of trees or tree seedlings, or combinations of grasses and trees;

(10) The method of abandonment of operations proposed to protect the unmined recoverable reserves and other resources, including the method proposed to fill in, fence or close all surface openings which are a hazard to people or animals. Abandonment of operations also is subject to the provisions of Subpart 3595 of this title; and

(11) Any additional information that the authorized officer deems necessary for approval of the plan.

(d)(1) Approved exploration and mining plans may be modified at any time to adjust to changed conditions or to correct an oversight. To obtain approval of an exploration or mining plan modification, the operator/lessee shall submit a written statement of the proposed modification and the justification for such modification. Any proposed exploration or mining plan modification(s) shall not be implemented unless previously approved by the authorized officer.

(2) The authorized officer may require a modification to the approved exploration or mining plan if conditions warrant. Such modification may be appealed under Part 4 of this title.

(e) If circumstances warrant, or if development of an exploration or mining plan for the entire operation is dependent upon unknown factors which cannot or will not be determined except during the progress of the operations, a partial plan may be approved and supplemented from time to time. The operator/lessee shall not, however, perform any operation except under an approved plan.

§ 3592.2 Maps of underground workings and surface operations.

Maps of underground workings and surface operations shall be drawn to a scale acceptable to the authorized officer. All maps shall be appropriately marked with reference to Government land marks or lines and elevations with reference to sea level. When required by the authorized officer, vertical projections and cross sections shall accompany plan views. Maps shall be based on accurate surveys and certified by a professional engineer, professional land surveryor or other professionally qualified person. Accurate copies of such maps or reproductive material or prints thereof shall be furnished the authorized officer when and as required.

§ 3592.3 Production maps.

(a) The operator shall prepare maps which show mineral production from the leased lands. All excavations in each separate bed or deposit shall be shown in such a manner that the production of minerals for any royalty period can be accurately ascertained. Production maps shall be submitted to the authorized officer at the end of each royalty reporting period or on a schedule determined by the authorized officer. As appropriate or required by the authorized officer, production maps also shall show surface boundaries, lease boundaries and topography, including subsidence resulting from mining activities.

(b) In the event of failure of the operator to furnish the maps required by this section, the authorized officer shall employ a licensed mine surveyor to make a survey and maps of the mine, and the cost thereof shall be charged to and promptly paid by the operator/leassee.

(c) If the authorized officer believes any map submitted by an operator/lessee is incorrect, the authorized officer may cause a survey to be made, and if the survey shows the map submitted by the operator/lessee to be substantially incorrect in whole or in part, the cost of making the survey and preparing the map shall be charged to and promptly paid by the operator/lessee.

Subpart 3593—Bore Holes and Samples

§ 3593.1 Core or test hole, cores, samples, cuttings.

(a) The operator/lessee shall submit promptly to the authorized officer a signed copy of records of all core or test holes made on the lands covered by the lease, license or permit. The records shall be in a form that will allow the position and direction of the holes to be located on a map. The records shall include a log of all strata penetrated and conditions encountered, such as water, gas or unusual conditions. Copies of analyses of all samples shall be transmitted to the authorized officer as soon as obtained or as requested by the authorized officer. The operator/lessee shall furnish the authorized officer a detailed lithologic log of each drill hole and all other in-hole surveys, such as electric logs, gamma ray neutron logs, sonic logs or any other logs produced. The core from test holes shall be

retained by the operator/lessee for 1 year or such other period as may be directed by the authorized officer, and shall be available for inspection by the authorized officer. The authorized officer may cut such cores and receive samples as appropriate. Upon the request of the authorized officer, the operator/lessee shall furnish samples of strata, drill cuttings and mill products.

(b) Drills holes for development or holes for prospecting shall be abandoned to the satisfaction of the authorized officer by cementing and/or casing or by other methods approved in advance by the authorized officer and in a manner to protest the surface and not endanger any present or future underground operation or any deposit of oil, gas, other mineral substances or water strata.

(c) Logs and analyses of development holes shall not be required unless specifically requested by the authorized officer. Drill holes may be converted to surveillance wells for the purpose of determining the effect of subsequent operations upon the quantity, quality or pressure of ground water or mine gases. Such conversion may be required by the authorized officer or requested by the operator/lessee and approved by the authorized officer. Prior to the termination of the lease, license or permit term, all surveillance wells shall be reclaimed unless the surface owner assumes responsibility for reclamation of such surveillance wells. The transfer of liability for reclamation shall be approved in writing by the authorized officer.

(d) When drilling on lands with potential for encountering high pressure oil, gas or geothermal formation, drilling equipment shall be equipped with blowout control devices acceptable to the authorized officer.

Subpart 3594—Mining Methods

§ 3594.1 Ultimate maximum recovery.

(a) Mining operations shall be conducted in a manner to yield the ultimate maximum recovery of the mineral deposits, consistent with the protection and use of other natural resources and the protection and preservation of the environment—land, water and air. All shafts, main exits and passageways, as well as overlying beds or mineral deposits that at a future date may be of economic importance, shall be protected by adequate pillars in the deposit being worked or by such other means as approved by the authorized officer.

(b) Information obtained regarding the mineral deposit being worked and other mineral deposits on the lease, license or permit shall be fully recorded and a copy of the record furnished to the authorized officer.

§ 3594.2 Support pillars.

Sufficient pillars shall be left during first mining to ensure the ultimate maximum recovery of mineral deposits prior to abandoment. All boundary pillars shall be 50 feet thick unless otherwise specified in writing by the authorized officer. Boundary and other main pillars shall be mined only with the written consent or by order of the authorized officer.

§ 3594.3 Boundary pillars and isolated blocks.

(a) If the ore on adjacent lands subject to the regulations in this part has been worked out beyond any boundary pillar, if the water level beyond the pillar is below the operator's/lessee's adjacent operations, and if no other hazards exists, the operator/lessee shall, on the written demand of the authorized officer, mine out and remove all available ore in such boundary pillar, both in the lands covered by the lease and in the adjoining premises, when the authorized officer determines that such ore can be mined without undue hardship to the operator/lessee.

(b) If the mining rights in adjoining premises are privately owned or controlled, an agreement may be made with the owners of such interests for the extraction of the ore in the boundary pillars.

(c) Narrow strips of ore between leased lands and the outcrop on other lands subject to the regulations in this part and small blocks of ore adjacent to leased lands that would otherwise be isolated or lost may be mined under the provisions of paragraphs (a) and (b) of this section.

§ 3594.4 Development on leased lands through adjoining mines as part of a mining unit.

An operator/lessee may mine a leased tract from an adjoining underground mine on lands privately owned or controlled or from adjacent leased lands, under the following conditions:

(a) The only connections between the mine on lands privately owned or controlled and the mine on leased lands shall be the main haulageways, the ventilationways and the escapeways. Substantial concrete frames and fireproof doors that can be closed in an emergency and opened from either side shall be installed in each such connection. Other connections through the boundary pillars shall not be made until both mines are about to be exhausted and abandoned. The authorized officer may waive any of the requirements of this paragraph when it is determined such waiver will not conflict with the regulations in 30 CFR Part 57 and will not entail substantial loss of ore.

(b) Free access for inspection of said connecting mine on lands privately owned or controlled shall be given at any reasonable time to the authorized officer.

(c) If an operator/lessee is operating on a lease through a mine on lands privately owned or controlled does not maintain the mine access in accordance with the safety regulations, operations on the leased lands may be stopped by order of the authorized officer.

§ 3594.5 Minerals soluble in water; brines; minerals taken in solution.

In mining or prospecting deposits of sodium, potassium or other minerals soluble in water, all wells, shafts, prospecting holes and other openings shall be adequately protected with cement or other suitable materials against the coursing or entrance of water. The operator/lessee shall, when ordered by the authorized officer, backfill with rock or other suitable material to protect the roof from breakage when there is a danger of the entrance of water. On leased, license or permit lands containing brines, due precaution shall be exercised to prevent the deposit from becoming diluted or contaminated by the mixture of water or valueless solution. Where minerals are taken from the earth in solution, such extraction shall not be within 500 feet of the boundary line of the leased lands without the written permission of the authorized officer.

Subpart 3595—Protection Against Mining Hazards

§ 3595.1 Surface openings.

(a) The operator/lessee shall substantially fill in, fence, protect or close all surface openings, subsidence holes, surface excavations or workings which are a hazard to people or animals. Such protective measures shall be maintained in a secure condition during the term of the lease, license or permit. Before abandonment of operations, all openings, including water discharge points, shall be closed to the satisfaction of the authorized officer.

(b) Reclamation or protection of surface areas no longer needed for operations will commence without delay. The authorized officer shall designate such areas where restoration or protective measures, or both, shall be taken.

§ 3595.2 Abandonment of underground workings.

No underground workings or part thereof shall be permanently abandoned and rendered inaccessible without the advance, written approval of the authorized officer.

Subpart 3596—Waste from Mining or Milling

§ 3596.1 Milling.

The operator/lessee shall conduct milling operations under the terms of the established requirements. The operator/lessee shall use due diligence in the reduction, concentration or separation of mineral substances by mechanical or chemical processes or other means so that the percentage of salts, concentrates, or other mineral substances recovered and waste generated shall be in accordance with the established requirements.

§ 3596.2 Disposal of waste.

The operator/lessee shall dispose of all wastes resulting from the mining, reduction, concentration or separation of mineral substances in accordance with the terms of the lease, approved mining plan, applicable Federal, State and local law and regulations and the directions of the authorized officer.

Subpart 3597—Production Records

§ 3597.1 Books of account.

(a) Operators/lessees shall maintain records which show a correct account of all ore and rock mined, of all ore put through the processing plant, of all mineral products produced and of all ore and mineral products sold. The records shall show all relevant quality analyses or ore mined, processed or sold and the percentage of the mineral products recovered or lost.

(b) Production records shall be made available for examination by the authorized officer during regular business hours. For the purpose of production verification, the authorized officer may request, and the operator/lessee shall submit a copy of any portion of the production records not submitted to the Service as part of the operator's/lessee's royalty reporting.

§ 3597.2 Value basis for royalty computation.

The gross value for royalty purposes shall be determined by the Service.

§ 3597.3 Audits.

(a) An audit of the operator's/lessee's accounts and books may be made or directed by the Service in accordance with the provisions of Title 30 of the Code of Federal Regulations.

(b) An audit of the operator's/lessee's accounts and production records by the Service may be requested by the authorized officer if, during the process of verification of production, it is determined that an irregularity exists between reported production and production calculated by the authorized officer. Such audits shall be requested when the irregularity cannot be resolved between the operator/lessee and the authorized officer.

Subpart 3598—Inspection and Enforcement

§ 3598.1 Inspection of underground and surface conditions; surveying, estimating and study.

Operators/lessees shall provide means at all reasonable hours, either day or night, for the authorized officer to inspect or investigate the underground and surface conditions; to conduct surveys; to estimate the amount of ore or other mineral product mined; to study the methods of prospecting, exploration, testing, development, processing and handling; to determine the volumes, types, and composition of wastes generated; to determine the adequacy of measures for minimizing the amount of such wastes and the measures for treatment and disposal of such wastes; to determine reclamation procedures and progress; production records; environmental concerns; and to determine whether the operator/lessee is in compliance with established requirements.

§ 3598.2 Issuance of orders.

Orders and notices issued by the authorized officer shall be mailed by certified mail, return receipt requested, to the operator/lessee at the address furnished in the exploration or mining plan. The operator/lessee shall notify the authorized officer of any change of address or operator/lessee name.

§ 3598.3 Service of notices, instructions and orders.

The operator/lessee shall be considered to have received all notices and orders that are mailed by certified mail and a receipt received by the authorized officer. Verbal orders and notices may be given to officials at the mine but shall be promptly confirmed in writing in accordance with § 3598.2 of this title.

§ 3598.4 Enforcement orders.

(a) If the authorized officer determines that an operator/lessee has failed to comply with established requirements, and such noncompliance does not threaten immediate, serious or irreparable damage to the environment, the mine or deposit being mined, or other valuable mineral deposits or other resources, the authorized officer shall serve a notice of noncompliance upon the operator/lessee by delivery in person or by certified mail, return receipt requested. Failure of the operator/lessee to take action in accordance with the notice of noncompliance shall be grounds for the authorized officer to issue an order to cease operations or initiate legal proceedings to cancel the lease under § 3509.4 of this title.

(b) A notice of noncompliance shall specify how the operator/lessee has failed to comply with established requirements, and shall specify the action which shall be taken to correct the noncompliance and the time limits within which such action shall be taken. The operator/lessee shall notify the authorized officer when noncompliance items have been corrected.

(c) If, in the judgment of the authorized officer, the failure to comply with the established requirements threatens immediate, serious or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the authorized officer may, either in writing or orally with written confirmation, order the cessation of operations without prior notice.

§ 3598.5 Appeals.

Orders or decisions issued under the regulations in this Part may be appealed as provided in Part 4 of this title. Orders issued under § 3598.4(c) of this Title shall be effective during the pendency of any appeal.

J. Steven Griles,

Assistant Secretary of the Interior.

August 24, 1987.

[FR Doc. 88-1475 Filed 1-25-88; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-470, RM-5440, RM-5762, and RM-5763]

Radio Broadcasting Services; Lake Lorraine and Niceville, FL, and Evergreen, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests additional information in the above docketed proceeding. The *Notice*, issued

at the request Michael J. Pollack, proposed allotting Channel 227A to Lake Lorraine, Florida. This *Further Notice* is necessary to request additional information regarding the community status of Lake Lorraine, before the requested channel can be allocated. The counterproposal of Emerald Coast Broadcasting proposed Channel 227A for use at Niceville, Florida, instead. In a *First Report and Order* we have allotted alternate Channel 262A to Niceville in lieu of Channel 227A. (53 FR 1629, January 21, 1988) The counterproposal of Wolff Broadcasting, licensee of Station WEGN-FM, Evergreen, Alabama, proposing to upgrade its Class A facility (Channel 228A) to operate on Channel 227C2 (RM-5763), is being considered in a separate proceeding (Docket 87-451).

DATES: Comments must be filed on or before February 29, 1988, and reply comments on or before March 15, 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: Lewis I. Cohen, Cohen and Berfield, P.C., 1129—20th Street N.W., Washington, DC 20036, (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-470, adopted December 8, 1987, and released January 12, 1988. 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 if 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. 88-1089 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01M

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47 CFR Part 73

[MM Docket No. 87-605, RM-6037]

Radio Broadcasting Services; Bismarck, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Randolph V. Bell, which proposes to allot Channel 225A to Bismarck, Illinois, as a first FM service.

DATES: Comments must be filed on or before March 11, 1988, and reply comments on or before March 28, 1988.

ADDRESSES: 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: Randolph V. Bell, 4314 Cherry Court, Evansville, Indiana 47715.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-605, adopted December 14, 1987, and released January 19, 1988. 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. 88-1461 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[Docket No. 87-593, RM-6049]

Radio Broadcasting Services; Baker, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This document requests comments on a petition by Jeffrey G. Welsh proposing the allotment of FM Channel 297A to Baker, Louisiana as that community's first FM service.

DATES: Comments must be filed on or before March 11, 1988, and reply comments on or before March 28, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Gary S. Smithwick, Esq., Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street NW., Suite 203, Washington, DC 20036 (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-593, adopted December 14, 1987, and released January 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission

consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Mass Media Bureau.

[FR Doc. 88-1462 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-601, RM-5950]

Radio Broadcasting Services; Galliano, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Callais Broadcasting, Inc., licensee of Station KBAU(FM), Galliano Louisiana, proposing to modify its license from Channel 232A to Class C2 facilities operating on the same Channel 232.

DATES: Comments must be filed on or before March 11, 1988, and reply comments on or before March 28, 1988.

ADDRESSES: Federal Communication Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Bradford D. Carey, Esq., Hardy, Popham & Wirpel, 700 Camp Street, New Orleans, Louisiana 70130 (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-601 adopted December 14, 1987, and released January 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88-1463 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket NO. 87-602, RM-6091]

Radio Broadcasting Services; Roseburg, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Michael R. Wyatt proposing the substitution of Channel 276C2 for Channel 276A at Roseburg, Oregon, and the modification of his license for Station KRSB-FM to specify the higher powered channel. Channel 276C2 can be allocated to Roseburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.5 kilometers (15.2 miles) west to accommodate petitioner's desired transmitter site. In accordance with section 1.420(g), the Commission will not accept competing expressions of interest in the use of this co-channel at Roseburg nor require petitioner to demonstrate the availability of an additional equivalent channel.

DATES: Comments must be filed on or before March 11, 1988, and reply comments on or before March 28, 1988.

ADDRESSES: 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: Rainer K. Kraus, Esq., Peter M. Connolly, Esq., Koteen & Naftalin, 1150 Connecticut Avenue NW., Washington, DC 20036 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-602, adopted December 14, 1987, and released January 19, 1988. 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.

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 not longer subject to Commission consideration of 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. 88-1464 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-604, RM-6089]

Radio Broadcasting Services; Waynesboro, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Pioneer Radio, Inc., licensee of AM Station WTNR at Waynesboro, Tennessee, proposing the allotment of Channel 235A to Waynesboro, as that community's first FM broadcast service. A site restriction of 3.9 kilometers (2.4 miles) south of the community is required.

DATES: Comments must be filed on or before March 11, 1988, and reply comments on or before March 28, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should reserve the petitioners, or their counsel or consultant, as follows: Eugene F. Mullin, Esquire, Rhyne, Emmons, and Topel, P.C., 1000 Connecticut Avenue, Suite 500, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–604, adopted December 14, 1987, and released January 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88–1465 Filed 1–25–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–603, RM–6084]

Radio Broadcasting Services; Brownfield, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule

SUMMARY: This document requests comments on a petition by Brownfield Broadcasting Corp., licensee of Station KKTC (FM), Channel 280A, Brownfield, Texas, proposing the substitution of Channel 282C2 for Channel 280A at Brownfield and modification of its station's license to reflect the higher class channel, as that community's first wide coverage area FM station.

DATES: Comments must be filed on or before March 11, 1988, and reply comments on or before March 28, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: James D. Denison, General Manager, Brownfield Broadcasting Corp., 110 S. 5th Street, Brownfield, Texas 79316 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–603, adopted December 14, 1987, and released January 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88–1466 Filed 1–25–88; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 53, No. 16
Tuesday, January 26, 1988

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.

ACTION

Special Volunteer Programs; Demonstration Grants; Funds Availability

AGENCY: ACTION.

ACTION: Notice of availability of funds, demonstration grants.

SUMMARY: The Drug Alliance of ACTION announces the availability of approximately $545,000 to fund two demonstration grants under the Drug Enforcement, Education, and Control Act of 1986 (Pub. L. 570). Eligible applicants are public and private non-profit organizations and agencies, such as service organizations, religious institutions, foundations, national federations and councils, fraternities and sororities, associations, civic organizations, and research organizations.

Two grants will be awarded under a competitive selection process. One grant will be awarded in an amount up to $300,000 to conduct a series of up to 52 State conferences—up to one each in the 50 states, Puerto Rico and the District of Columbia—and a capstone symposium to be held in Washington, DC; another grant will be awarded in an amount up to $245,000 to conduct an at-risk youth initiative in nine urban cities and a community-based youth demonstration project in one city. Preference will be given to applicants who can match ACTION funds with private sector funds.

The purpose of these grants is to mobilize communities (parent and youth groups, businesses, service clubs, schools, churches, law enforcement, the print and broadcast media and state/local government agencies) toward positive drug prevention activities by providing them with the necessary information, resources, and tools to enable the creation of long-term local public/private coalitions working towards drug-free communities.

Applications are due by 5:00 p.m. EST on February 29, 1988. All applications that are complete and conform to the requirements of the program announcement will be considered.

A. Objectives

ACTION, the Federal Domestic Volunteer Agency, has been directed by the President and the Congress to respond to a national crisis: The proliferation of drug abuse across all sectors of our society. The Agency, historically a principal source of volunteer leadership in the United States, reaches out to those in need through the selfless efforts of families, friends, neighbors and fellow citizens. The insidious nature of drug abuse in this country, and its particular threat to young people, requires innovative and enduring programs of prevention and education—programs ACTION is uniquely prepared to foster through its demonstrated ability to encourage and sustain the spirit of voluntarism.

Recognizing the extent of the drug abuse problem, ACTION seeks to encourage the full mobilization of public and private organizations to pool their financial resources for drug abuse prevention programming. ACTION is interested in providing funding for one grant for eight months focusing on creating effective long-term local public and private coalitions among service organizations, youth organizations, parent/youth groups, businesses, the print and broadcast media, foundations, schools, and community-based volunteer agencies via a series of up to 52 state conferences, including up to one conference each for the 50 states, District of Columbia and Puerto Rico, and a capstone symposium to be held in Washington, DC. The conferences should arm participants with the necessary information, resources, and tools to enable them to form local coalitions working towards drug-free communities. The conferences should use a hands-on approach in showing how coalitions are formed. Commitments of support from the private sector should be solicited at the conferences. The involvement of governmental and community leaders should also be emphasized.

The conferences should be conducted at locations within the state where the majority of those working on drug abuse prevention and education will have the opportunity to participate. Applicants are not required to cover the cost of conference attendees; but, should describe their strategy plans for ensuring attendance of the low-income community at the conferences. All invitations should be personalized. Applicants should submit plans on the development of an instrument to measure the extent to which conference participants have met coalition-building objectives at their local level. The instrument will be implemented by the Agency as a follow-up to the conferences. Applicants should show plans to encourage state and local affiliates of national service organizations to participate in the conferences.

The capstone symposium should focus on the accomplishment of effective coalitions resulting from the state conferences and the results of the at-risk and youth demonstration projects described hereinafter. The symposium should include the top leadership of major national organizations. The symposium should offer each organization the opportunity to communicate and share the results of successful local public/private coalitions.

ACTION is also interested in providing funding for another grant for eight months to support at-risk youth projects in nine urban cities and a community-based youth demonstration project in one city. Applicants may elect to add or enhance components to existing projects in the localities rather than creating new projects. The at-risk youth program should develop and launch a broad-based volunteer effort to reach the young people in these localities who, due to a variety of economic and social circumstances, are most "at-risk" of becoming involved with drugs and alcohol.

The projects should be operated in close proximity to the areas where the abuse exists and should include those in the community working on the problem as well as those capable of providing financial, in-kind, and moral support to the community effort. The initiative should also assist local coalitions to develop a comprehensive program for the healthy development of urban youth, through the creation of positive alternative activities for youth as a tool to prevent drug usage. The selected sites

will be decided jointly by the selected grantee and ACTION.

The community-based youth project should guide young people to use their leisure time productively through community service activities. The project should consist of a leadership training workshop for both teen and adult volunteers, including the elderly, who will be selected by various community organizations to attend the workshop. Using a community needs assessment process learned during the training workshop, the volunteers should form teams to determine what kinds of projects would be helpful in their communities. The teenagers should select, plan, and implement the projects with minimal guidance from the adult leaders.

ACTION encourages the maximizing of private sector support through continuation and/or expansion of the at-risk youth projects. One of the criteria that applicants will be rated on is their plans to assist the nine at-risk projects and the one youth demonstration project in pursuing private sector funds.

ACTION requires that voluntarism be an integral part of project planning and that service delivery and activities be projected beyond the expiration of the ACTION grant through non-ACTION support. Project proposals under this announcement must reflect a clear understanding that ACTION funding is limited to a single, non-renewable grant.

B. Conditions

ACTION Drug Alliance grants are directed at programs of drug abuse prevention through public awareness and education, and are not intended to address intervention or treatment issues. Programs may not advocate the responsible use of any illegal drugs.

Applicants may submit proposals for ACTION funding up to $300,000 for the "conferences" grant and up to $245,000 for the "at-risk youth and community-based youth projects" grant.

Public agencies, and public and private non-profit organizations are eligible.

Applicants must provide a written statement indicating a willingness to participate in an evaluation conducted by ACTION.

C. Review Criteria

In addition to the conditions set forth above, all applications will be reviewed according to the following criteria to determine the extent to which:

1. The applicant's strategies and goals, private sector support strategy, and likelihood that the applicant will create lasting and effective state and/or local coalitions continued beyond the conferences;

2. Project goals and objectives are time-phased, quantifiable, measurable, and amenable to interim and final analysis;

3. The budget items are justified in terms of the proposed cost of project operation;

4. The proposed staff is capable of fulfilling the goals and objectives of the grant;

5. The project will be completed within the proposed timetable; and

6. The likelihood of private sector support. Preference will be given to applicants who can match ACTION funds with private sector funds.

Applications for the at-risk and youth demonstration projects grant will also be reviewed according to two additional criteria.

1. Target population will be included in implementing the planned model;

2. The applicant justifies the selection of the project goals and objectives and demonstrates a coherent plan for mobilizing volunteers and other resources to achieve a determined impact on the community's ability to prevent drug abuse.

D. Award Criteria

The following criteria will be considered in the decision to fund applications:

1. The overall quality of the project as determined by the Agency review process (Part C);

2. The significance of the project in terms of increasing knowledge of successful strategies to volunteer drug abuse prevention and education projects; and

3. Large geographical impact.

E. Available Funds and Scope of the Grant

ACTION announces that $545,000 is available for two grants under this announcement. Publication of this announcement does not obligate ACTION to award a grant, or any specific number of grants, or to obligate any specific amount of money for a grant.

F. Application Screening and Review Process

ACTION's Program Demonstration and Development Office will review and evaluate all eligible applications submitted under this announcement. The final selection from among the highest-rated applications will be made by the Associate Director for Domestic Operations.

ACTION reserves the right to ask for evidence of any claims of past performance of future capability.

G. Application Submission and Deadline

One signed original and two copies of all completed applications must be submitted to the Drug Alliance Office, ACTION, Room M-513, 806 Connecticut Avenue NW., Washington, DC 20525. The deadline for receipt of applications is February 29, 1988. Only those applications received by 5:00 p.m. EST on this date will be eligible.

All applications must be submitted on OMB Form 3001-0091. In addition, applicants should submit: Endorsements from business partners and a written statement acknowledging that ACTION's funding role is limited to a maximum eight months for "conferences" applicants and eight months for "at-risk and community-based youth project" applicants and that the grants are non-renewable.

To receive an application form, please contact the Drug Alliance Office, ACTION, Room M-513, 806 Connecticut Avenue NW., Washignton, DC 20525, (202) 634-9759.

Signed in Washington, DC, this 20th day of January, 1988.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 88-1439 Filed 1-25-88; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Housing Preservation Grant Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. FmHA hereby announces that it will receive preapplications January 26, 1988, and for 90 days thereafter.

DATES: The closing date for preapplication is April 25, 1988. Preapplication must be received by or postmarked on or before this date.

ADDRESSES: Submit preapplications to FMHA field offices; applicants must contact their State FmHA Office for this information.

FOR FURTHER INFORMATION CONTACT: Sue M. Harris, Loan Officer, Multi-Family Housing Processing Division,

FmHA, USDA, Room 5337, South Agriculture Building, Washington, DC 20250, telephone (202) 382-1660 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: 7 CFR Part 1944, Subpart N provides details on what information must be contained in the preapplication package. See 51 FR 17443. Entities wishing to apply for assistance should contact the FmHA State Office to receive further information and copies of the application package. Eligible entities for these competitively awarded grants include state and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible entities.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.433-Housing Preservation Grants. This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V; 49 FR 29112, June 24, 1983). Applicants are also referred to 7 CFR 1944.674 and 1944.676 (d) and (e) for specific guidance on these requirements relative to the HPG program.

The funding instrument for the Housing Preservation Grant program will be a grant agreement. The term of the grantee can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been set, although, based on FY 1986 and 1987 experience, the Agency anticipates that the average grant will be between $100,000 and $150,000 for a one-year proposal. For FY 1988, $19,140,000 is available and has been distributed under a formula allocation to States pursuant to 7 CFR Part 1940, Subpart L, Methodology and Formulas for Allocation of Loan and Grant Funds.

Applications will be reviewed and rated on the project selection criteria contained in the regulations for the program.

Decisions on funding will be based on the preapplications; and, notices of action on the preapplications should be made within 60 days of the closing date.

Authority: (42 U.S.C. 1480, 7 CFR 2.23, 7 CFR 2.70.

Date: January 20, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-1533 Filed 1-25-88; 8:45 am]

BILLING CODE 3410-07-M

Redelegation of Authority To Approve Debt Settlements and Releases of Liability in Connection With Voluntary Liquidations

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of redelegation of authority.

SUMMARY: The Farmers Home Administration (FmHA) gives notice that on September 25, 1987, the Administrator redelegated certain authorities to all State Directors dealing with the settlement of and/or release of liability to FmHA debts, owed by borrowers, who make application to settle their FmHA debts or request release of liability together with a voluntary liquidation of loan security. The redelegation authority granted on September 25, 1987, expired on December 31, 1987 and the Administrator now gives notice to extend that redelegation through September 30, 1988. This action is taken to expedite the processing of debt settlement applications/requests, to provide debt relief to borrowers leaving farming, who are unable to repay all of their FmHA debt. The effect of the extension of the redelegation of the Administrator's authority, is the continued expediting of the administrative review process for debt settlements and releases of liability, permitting more timely debt relief to FmHA borrowers, and correspondingly reduce the Agency's portfolio of inactive accounts.

EFFECTIVE DATES: September 25, 1987, through September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Darrow E. Strain, Farmer Programs Loan Servicing and Property Management Division, Direct Loans and Property Management Branch, FmHA, USDA, Room 5445, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, telephone (202) 475-6293.

SUPPLEMENTARY INFORMATION:

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance: 10.404—Emergency Loans, 10.406—Farm Operation Loans, 10.407—Farm Ownership Loans, 10.410—Low Income Housing Loans, 10.416—Soil and Water Loans, 10.417—Very Low Income Housing Repair Loans and Grants and 10.428—Economic Emergency Loans.

Notice

The notice of the delegation of authority for approving debt settlement/release of liability cases reads as follows:

This extends the authority given under the unnumbered memorandum dated September 25, 1987, entitled "Delegation of Authority for Approving Debt Settlement/Release of Liability Cases."

Pursuant to authority delegated to me as Administrator, Farmers Home Administration (FmHA), I hereby redelegate to State Directors authority to approve the following:

1. Debt settlement cases in accordance with § 1956.58(a)(3) of FmHA Instruction 1956-B "Debt Settlement-Farmer Programs and Single Family Housing," (revised 7-29-87, PN 59).

2. Releases of liability in accordance with § 1955.10(f)(2), and 1955.20(b)(2) of FmHA Instruction 1955-A, "Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property."

3. Releases of Liability in accordance with § 1962.34(h) of FmHA Instruction 1962-A, "Servicing and Liquidation of Chattel Security," and §§ 1965.26(f)(5)(ii) and 1965.27(f) of FmHA Instruction 1965-A, "Servicing of Real Estate Security For Farmer Programs Loans and Certain Note-only Cases."

This authority DOES NOT extend to debt settlement of Non-Program (NP) loans, Economic Opportunity (EO) loans and claims against third party converters. These should be prepared and submitted in accordance with FmHA AN No. 1710(1956) dated December 30, 1987.

This extension of the redelegation shall be effective through September 30, 1988, unless revoked or otherwise modified, in writing.

Date: January 20, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-1532 Filed 1-25-88; 8:45 am]

BILLING CODE 3410-07-M

Forest Service

Saline Bayou National Wild and Scenic River Classification and Boundary Delineation for Saline Bayou, Natchitoches and Winn Parishes, LA; Availability

AGENCY: Forest Service, USDA.

ACTION: Notice of the availability of the boundaries and classification of Saline

Bayou, Louisiana; Natchitoches and Winn Parishes, Louisiana.

SUMMARY: Public Law 99–590, containing amendments to the Wild and Scenic Rivers Act which were enacted by Congress and signed into law on October 30, 1986, designated Saline Bayou from Saline Lake to the Kisatchie National Forest boundary as a component of the National Wild and Scenic Rivers system to be administered by the Secretary of Agriculture. The USDA Forest Service has classified Saline Bayou as scenic and has delineated the river corridor boundaries as required by the Wild and Scenic Rivers Act as amended. Detailed boundaries establish the area that will be addressed in a comprehensive management plan for the river.

ADDRESSES: River boundaries have been prepared and are available for review at the following offices:

USDA Forest Service, Recreation, South Building, 12th and Independence Avenue SW., Washington, DC 20250.
Southern Regional Office, 1720 Peachtree Road NW., Atlanta, Georgia 30367
Kisatchie National Forest, 2500 Shreveport Highway, Pineville, Louisiana 71360
Winn Ranger District, Winnfield, Louisiana 71483

FOR FURTHER INFORMATION CONTACT: Gerald Barnett, Forest Planner, 2500 Shreveport Highway, Pineville, Louisiana 71360, telephone (318) 473–7160.

John L. Rich,

Acting Regional Forester.

[FR Doc. 88–1440 Filed 1–25–88; 8:45 am]

BILLING CODE 3410–11–M

National Agricultural Statistics Service

Reinstatement of Barley Production and Stocks Reports

Notice is hereby given that the National Agricultural Statistics Service (NASS) will reinstate July 1 and September 1 barley production estimates. Currently, only an August 1 production forecast is made. Also, barley stocks reports for September 1, December 1, and March 1 will be restored effective September 1, 1988. Since the June 1 stocks report is currently being published, this change will provide barley stocks reports for all four quarters to data users. These changes bring the barley estimating program to the level prior to the program reductions made in 1986.

Funding for increasing the barley production and stocks estimating program was included in the 1988 appropriation for NASS.

Comments from interested persons regarding these changes should be addressed to Richard D. Allen, Deputy Administrator for Programs, NASS/USDA, Room 4133–S, Washington, DC 20250.

Dated: January 21, 1988.

Charles E. Caudill,

Administrator.

[FR Doc. 88–1482 Filed 1–25–88; 8:45 am]

BILLING CODE 3410–20–M

Soil Conservation Service

Friendship Park Critical Area Treatment RC&D Measure, Allegany County, NY

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Friendship Park Critical Area Treatment RC&D Measure, Allegany County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation of an environmental impact statement is not needed for this project.

The measure concerns a plan to provide for stabilization of a degrading stream channel which is undermining a wall at the edge of a part in the Village of Friendship. The critical erosion, which occurs during high runoff events, threatens the continued existence of the park as well as an adjacent road bridge and village water and sewer lines. The integrity of the park, bridge, and adjacent utilities will be assured through the installation of project measures. The planned works of improvement include the installation of three rock riprap sills and aprons across the stream channel, and seeding and mulching of all disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and Local officials.)

Paul A. Dodd,

State Conservationist.

Date: January 11, 1988.

[FR Doc. 88–1441 Filed 1–25–88; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Short-Supply Review on Certain Semi-Finished Steel Slabs; Request for Comments

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, with respect to certain semi-finished steel slabs.

EFFECTIVE DATE: Comments must be submitted no later than February 6, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of

Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTAL INFORMATION: Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the US steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products * * *."

We have received a short-supply request for certain low carbon steel slabs, eight to nine inches in thickness, 30 to 38 inches in width, 285 inches in length, continuously cast and vacuum degassed, free of sub-surface inclusions with a cleanliness requirement of 250 inclusions per square meter maximum, for use in the manufacture of draw redraw food containers.

Any party interested in commenting on this request should send written comments as soon as possible, but no later than February 5, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central records Unit, Import Administration, U.S. Department of Commerce, Room B-099, at the above address.

January 19, 1988.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88–1529 Filed 1–25–88,8:45am]

BILLING CODE 3510-DS-M

Masters, Mates, and Pilots Mates Program; Consolidated Decision on Application for Duty-Free Entry of Scientific Instruments

This is a consolidated decision made pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897, 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Numbers: 82–194 and 82–332.

Applicant: Masters, Mates and Pilots MATES Program, The Maritime Institute of Technology and Graduate Studies (MITAGS), 5700 Hammonds Ferry Road, Linthicum Heights, MD 21090.

Instruments: Two (2) Navigational Simulator Systems, one (82–332) with a Motion Platform.

Manufacturer: Vereinigte Flugtechnische Werke-Fokker GmbH (VFW), West Germany.

Intended Use: See notice at 47 FR 25396.

Comments: None received within the regulatory time frame. We received additions to the record from several individuals experienced in navigation and one from a domestic manufacturer of navigational simulator systems.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instruments, for such purposes as they are intended to be used, is being manufactured in the United States.

Reasons: We denied these applications on April 25, 1983 (48 FR 17632), on the ground that the articles possessed no scientific value for the purposes for which they were intended to be used. The applicant appealed.

On March 5, 1984, the United States Court of Appeals for the Federal Circuit (CAFC), 727 F2d 748 (1984), reversed and remanded our decision. The CAFC directed us to "perform a proper scientific equivalency evaluation in order to determine whether simulators can be imported duty-free."

We have now completed this evaluation. To give greater reliability to our findings, we visited two sites of operational navigational simulator systems. The first visit was to CAORF, the U.S. -made simulator facility operated by the National Maritime Research Center of the U.S. Department of Transportation located at Kings Point, New York. We then visited the MITAGS facility at Linthicum Heights, Maryland, where the foreign systems have been in operation since 1982–83.

The law requires us to find that the foreign article possesses at least one feature needed for the applicant institution's scientific or scientific education purposes and that no domestic article possesses a similar feature permitting the satisfaction of these purposes. We conclude that a particular specification is "pertinent" when the applicant demonstrates a necessary connection between the instrument's capability and the achievement of its purpose. The applicant's simulator will be used to give experienced ship officers advanced training in the principles of shiphandling in a variety of environmental settings.

The applicant claimed the following specifications pertinent to its purposes:

- 360-degree field of view,
- A continuous, seamless presentation,
- A high degree of resolution (one minute of arc),
- Full color day or night presentation.

The applicant also alleged that its need for reasonable costs of operating the facility was pertinent, but the regulations do not permit our consideration of such factors.

The result of our review is that the applicant has shown that at least one of these required features is not satisfied by the domestic system. Our consultant advises that the best resolution available on a CGI system of the type manufactured by the domestic firm is approximately 1.8 minutes of arc. The foreign system achieves resolution of one minute of arc. Our visual observation of the two systems confirmed the superior acuteness of image (lights) in the foreign system.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88–1530 Filed 1–25–88; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Scoping/Planning Meeting for the Development of an Environmental Impact Statement Governing the Incidental Take of Marine Mammals During Domestic Commercial Fishing Operations

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

ACTION: Notice of intent to prepare an EIS and hold a scoping meeting.

SUMMARY: The National Marine Fisheries Service (NMFS) intends to prepare an Environmental Impact Statement (EIS) governing the incidental taking of marine mammals during commercial fishing operations within the U.S. exclusive economic zone. This NMFS is convening a scoping meeting to ensure that all interested parties have an opportunity to advise on the issues which need to be considered in developing the EIS.

DATE: The Scoping Meeting will be held in Washington, DC, on March 22, 1988; 9:00 a.m.–Noon.

ADDRESS: Universal Building South, Room 928, 1825 Connecticut Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead or R.B. Brumsted (202/673–5351).

SUPPLEMENTARY INFORMATION: The general permits issued under section 104 of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA) for 1984–88 to domestic commercial fishermen (except yellowfin tuna purse seine fishermen) will expire on December 31, 1988. In anticipation of receiving new applications during 1988, NMFS is initiating the consultation process under the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) to consider reissuance of five-year domestic general permits and annual foreign general permits for the period January 1, 1989–December 31, 1993.

An EIS will be prepared to present information on the status of marine mammal species involved, the impact of various commercial fisheries on marine mammals, and the impact of any alternatives to issuing permits on the impacted marine mammal stocks. The public scoping meeting will be held to ensure full opportunity for interested members of the public and government agencies to advise NMFS on the issue, alternatives, and impacts which should be addressed in the EIS.

Date: January 15, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88–1512 Filed 1–25–88; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Issuance of Permit; North Gulf Oceanic Society (P351B)

On August 28, 1987, notice was published in the **Federal Register** (52 FR 32500) that an application had been filed by North Gulf Oceanic Society, P.O. Box 156, Cordova, Alaska 99674, to inadvertently harass humpback whales (*Megaptera novaeangliae*) during photo-identification studies for the purpose of scientific research.

Notice is hereby given that on January 14, 1988, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1544) the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to North Gulf Oceanic Society subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

Documents submitted in connection with the permit are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC;

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802, and;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: January 14, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 88–1510 Filed 1–25–88; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Issuance of Permit; The Ocean Reef Club (P393)

On August 26, 1987, notice was published in the **Federal Register** (52 FR 32157) that an application had been filed by the Ocean Reef Club, Key Largo, Florida 33037, for a permit to take two (2) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display at the Ocean Reef facility.

Notice is hereby given that on January 15, 1988, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC 20009;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Southest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Date: January 15, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88–1511 Filed 1–25–88; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before February 25, 1988.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology, publishes this notice containing

proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) agency form number (if any); (4) frequency of collection; (5) the affected public; (6) reporting burden; and/or (7) recordkeeping burden; and (8) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: January 21, 1988.

Carlos U. Rice,

Director for Information Technology Services.

Office of Postsecondary Education

Type of Review: Revision
Title: Performance and Financial Status Reports for the Cooperative Education Program
Agency Form Number: ED 411, 411–1.
Frequency: Annually.
Affected Public: Non-profit institutions.

Reporting Burden

Responses: 195
Burden Hours: 1024

Recordkeeping

Recordkeepers:
Recordkeepers: 0
Burden Hours: 0
Abstract: Non-profit institutions of higher education that have participated in the Cooperative Education Program are required to submit these reports to the Department. The Department uses the information collected to assess the accomplishments of program goals and objectives, and to close out grants.

Office of Vocational and Adult Education

Type of Review: Extension
Title: Reporting Requirements Under the Carl D. Perkins Vocational Education Act of 1984
Agency Form Number: C30–1P
Frequency: Biennually
Affected Public: State and local governments

Reporting Burden

Responses: 4212
Burden Hours: 1,638,712

Recordkeeping

Recordkeepers: 0
Burden Hours: 0
Abstract: States are required to report on organizations and local educational agencies that participate in the State-administered programs under the Carl D. Perkins Vocational Education Act of 1984, as amended. The Department uses the information to determine compliance with the Act and effectiveness of vocational education programs.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Services for Deaf-Blind Children and Youth
Agency Form Number: B20–10P
Frequency: Annually
Affected Public: State or local governments

Reporting Burden

Responses: 22
Burden Hours: 176

Recordkeeping

Recordkeepers: 22
Burden Hours: 198
Abstract: These forms will be used by State agencies that have received funds under the Services for Deaf-Blind Children and Youth Program. The Department uses the information in preparing the Annual Report to Congress.

Office of Educational Research and Improvement

Type of Review: Extension
Title: Library Services and Construction Act Financial, Performance and Completion Report for State Administered Programs Titles I, II, and III.
Agency Form Number: ED 921–1, 921–2, 915–1
Frequency: Annually
Affected Public: State or local governments

Reporting Burden

Responses: 54
Burden Hours: 2160

Recordkeeping

Recordkeepers: 54
Burden Hours: 54
Abstract: These forms are used by State library administrative agencies that receive funds under the Library Services and Construction Act, as amended. The Department uses the information collected to assess the accomplishments of project goals and objectives, and to aid in effective program management.

[FR Doc. 88–1535 Filed 1–25–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87–45–NG]

Continental Natural Gas, Inc., Order Granting Blanket Authorization To Export Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to export natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Continental Natural Gas, Inc. (CNG), blanket authorization to export natural gas. The order issued in ERA Docket No. 87–45–NG authorizes CNG export up to 47.5 of Bcf of natural gas over two-year period to Canada beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 12, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Economic Regulatory Administration.

[FR Doc. 88–1528 Filed 1–25–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ST81–260–011]

Enogex, Inc.; Petition for Declaratory Order

January 21, 1988.

Take notice that on December 18, 1987, Enogex, Inc., Post Office Box 24300, Oklahoma City, Oklahoma, 73124–0300, filed in Docket No. ST81–260–011 a petition for clarification of an order issued May 20, 1982, in Docket No. ST81–260 [1] authorizing transportation service on behalf of El Paso Natural Gas Company (El Paso) for a term of 15 years, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Enogex, a successor in interest to Mustang Fuel Company (Mustang), is an intrastate pipeline engaged in the

[1] 19 FERC ¶ 61,168 (1982).

transportation of natural gas owned by El Paso within Oklahoma. In 1981, Mustang entered into a transportation agreement pursuant to section 311 of the Natural Gas Policy Act of 1978 to transport gas purchased by El Paso. On May 1, 1981, Mustang filed in Docket No. ST81-260 a petition for Commission approval of Mustang's proposed transportation rate. On February 17, 1982, Mustang filed in Docket No. CP82-206 for authorization to continue the transportation for El Paso for a primary term of 15 years. In a letter filed February 17, 1982, Mustang proposed a settlement of the issues in these proceedings. The Commission approved the settlement by order issued May 20, 1982. The approved settlement agreement provided for a term of 15 years.

Subsequent to the issuance of the order approving the settlement, the Commission issued Order Nos. 436 and 500.[2]

These orders restricted continuance of prior intrastate transportation agreements. Transportation by intrastate pipelines on behalf of interstate pipelines was to expire October 9, 1987, at the latest. However, this transaction authorized in 1982 was not, like most arrangements under section 311, a two-year self-implementing transaction. Because the 1982 order authorized transportation for 15 years, Enogex contends that Order Nos. 436 and 500 appear to contradict the prior authorization. Enogex requests that the Commission determine the status of its authority to transport gas for El Paso.

Any person desiring to be heard or to protest said filing should on or before February 11, 1988, 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 §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1522 Filed 1-25-88; 8:45 am]

BILLING CODE 6717-01

[2] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436 [Reg. Preambles 1982-1985] FERC Stats. & Regs. ¶ 30,665 (1985), *modified*, Order No. 436-A, [Reg. Preambles 1982-1985] FERC Stats. & Regs. ¶ 30,675 (1985), *modified further*, Order No. 436-B, III FERC Stats. & Regs. ¶ 30,688, *reh'g denied*, Order No. 436-C, 34 FERC ¶ 61,404, *reh'g denied*, Order No. 436-D, 34 FERC ¶ 61,405, *reconsideration denied*, Order No. 436-E, 34 FERC ¶ FERC ¶ 61,403 (1986), *vacated and remanded, sub nom.*, Associated Gas Distributors v. FERC, No. 85-1811 (D.C. Cir. June 23, 1987) (AGD). In AGD, the court generally upheld the substance of Order No. 436 and the procedures employed in adopting it, but found problems with certain issues and vacated and remanded the matter for further proceedings. On August 7, 1987, the Commission issued Order No. 500, which promulgated interim regulations in response to the court's remand. *See* Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 40 FERC ¶ 61,172 (1987) (Interim Rule and Statement of Policy, Docket No. RM87-34-000.) These interim regulations become effective on September 15, 1987.

[Project No. 6876-003]

Fillmore City Corp.; Surrender of Conduit Exemption

January 21, 1988.

Take notice that Fillmore City Corporation, exemptee for the proposed Chalk Creek Project No. 6876 requested that its exemption be terminated. The exemption was issued on May 28, 1985. Construction of the project has not commenced. The project would have been located on Chalk Creek in Millard County, Utah.

The exemptee filed the request on November 17, 1987, and the exemption for Project No. 6876 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1523 Filed 1-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-729-001]

Phillips Gas Marketing Co.; Application for Extension

January 20, 1988.

Take notice that on January 4, 1988, Phillips Gas Marketing Company (Phillips GMC), 800 Plaza Office Building, Bartlesville, Oklahoma 74004, filed an application pursuant to sections 4 and 7 of the Natural Gas Act requesting extension of the blanket limited-term certificate authorization issued in Docket No. CI87-729 for a period of three years effective April 1, 1988.

Phillips GMC states that it needs the authorization requested to permit the purchase and resale of gas released under other LTA authorizations, gas released pursuant to the Order No. 451 series, and any other natural gas subject to the Commission's Natural Gas Act jurisdiction which has been freed from requirements for continued deliveries to the previous purchasers.

Phillips GMC also requests waiver of Part 154 of the Commission's regulations as to the establishment and maintenance of rate schedules and the filing of blanket affidavits pursuant to §§ 154.94(h) and 154.94(k) and Part 271 of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 3, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Phillips GMC to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1517 Filed 1-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-229-000]

Phillips Petroleum Co.; Application for Extension

January 20, 1988.

Take notice that on January 4, 1988, Phillips Petroleum Company (Phillips), 800 Plaza Office Building, Bartlesville, Oklahoma 74004, filed an application pursuant to sections 4 and 7 of the Natural Gas Act requesting consolidation and extension of the blanket limited-term abandonment and certificate authorizations issued in Docket Nos. CI86-429 and CI87-384 for a period of three years effective April 1, 1988.

Phillips requests consolidation of the authorizations granted in Docket No. CI86-429, for NGA gas priced higher than the NGPA section 109 ceiling price,

and in Docket No. CI87–384, for NGA gas priced at or lower than the NGPA section 109 ceiling price.

Phillips also requests waiver of Part 154 of the Commission's regulations as to the establishment and maintenance of rate schedules and the filing of blanket affidavits pursuant to §§ 154.94(h) and 154.94(k) and Part 271 of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 3, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Phillips to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–1518 Filed 1–25–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI87–785–001]

Phillips 66 Natural Gas Co.; Application for Extension

January 20, 1988.

Take notice that on January 4, 1988, Phillips 66 Natural Gas Company (Phillips 66 NGC), 800 Plaza Office Building, Bartlesville, Oklahoma 74004, filed an application pursuant to sections 4 and 7 of the Natural Gas Act requesting extension of the blanket limited-term certificate authorization issued in Docket No. CI87–785 for a period of three years effective April 1, 1988.

Phillips 66 NGC states that it needs the authorization requested to permit the purchase and resale of gas released under other LTA authorizations, gas released pursuant to the Order No. 451 series, and any other natural gas subject to the Commission's Natural Gas Act jurisdiction which has been freed from requirements for continued deliveries to the previous purchasers.

Phillips 66 NGC also requests waiver of Part 154 of the Commission's regulations as to the establishment and maintenance of rate schedules and the filing of blanket affidavits pursuant to §§ 154.94(h) and 154.94(k) and Part 271 of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 3, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Phillips 66 NGC to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–1519 Filed 1–25–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI87–385–002]

Phillips 66 Natural Gas Co.; Application for Extension

January 20, 1988.

Take notice that on January 4, 1988, Phillips 66 Natural Gas Company (Phillips 66 NGC), 800 Plaza Office Building, Bartlesville, Oklahoma 74004, filed an application pursuant to sections 4 and 7 of the Natural Gas Act requesting extension of the blanket limited-term abandonment and certificate authorization issued in Docket No. CI87–385 for a period of three years effective April 1, 1988.

Phillips 77 NGC also requests waiver of Part 154 of the Commission's regulations as to the establishment and maintenance of rate schedules and the filing of blanket affidavits pursuant to §§ 154.94(h) and 154.94(k) and Part 271 of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 3, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Phillips 66 NGC to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–1520 Filed 1–25–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP88–8–000]

Volkswagen of America, Inc.; Petition for Declaratory Order

January 21, 1988.

On December 23, 1987, Volkswagen of America, Inc. (Volkswagen), P.O. Box 3951, Troy, Michigan 48007–3951, filed in Docket No. GP88–8–000 a Petition for Declaratory Order pursuant to Rule 207 of the Rules of Practice and Procedure of the Commission (18 CFR 385.207) requesting that the Commission determine and declare that Westmoreland Pipeline Company (Pipeline), a subsidiary of Volkswagen, qualifies as an intrastate pipeline within the meaning of section 2(16) of the Natural Gas Policy Act of 1978 (NGPA) and that Texas Eastern Transmission Corporation (Texas Eastern), as an interstate pipeline, may transport natural gas on behalf of the Pipeline on a self-implementing basis under section 311 of the NGPA, all as more fully described in the Petition.

The Petition states that Volkswagen, an industrial end-user, has executed a valid sales contract with The Resource Group (TRG), pursuant to which TRG has agreed to sell, and Volkswagen has agreed to purchase, certain quantities of natural gas which will be consumed at Volkswagen's plant in the State of Pennsylvania (the Plant).

The Petition states that the subject gas supply shall be produced from wells located in the States of Louisiana or Texas and such wells are classified under sections 102(c), 103(c), or 107(c)(1)–(4) of the NGPA. The Petition indicates that TRG shall purchase such gas from the producer or producers thereof and resell such gas directly to Volkswagen.

The Petition states that the Pipeline has constructed pipeline facilities located solely within the State of

Pennsylvania for the delivery of natural gas to the Plant and that the Pipeline owns and will operate the newly constructed facility. According to the Petition, the Pipeline is approximately six inches in diameter and approximately six miles in length, extending directly from a point which will, once a tap is constructed, be located on the mainline transmission facilities of Texas Eastern, an interstate pipeline, where it will accept gas from Texas Eastern at Texas Eastern's mainline operating pressure for delivery to the Plant. Volkswagen states that the subject gas shall be delivered from the wellhead to the facilities of Texas Eastern either through gathering facilities or other intrastate or interstate pipelines and that Texas Eastern, in turn, would thereafter transport the gas from that point to the point of interconnection with the facilities of the Pipeline in the State of Pennsylvania. It is stated that the Pipeline would transport the gas to the Plant and would not charge a fee for such service.

Volkswagen states that the Pipeline's only two points of interconnection would be with the Plant and Texas Eastern. Volkswagen states that the Pipeline facilities do not run through a processing plant and are not connected to any producing wells.

By its Petition, Volkswagen seeks an emergency Declaratory Order from the Commission because it is anticipated that a prospective purchaser of the Plant may require some assurance as to the viability of the Pipeline, as a mechanism or medium for the reduction of operating costs prior to and after the acquisition of the Plant, should said facilities be acquired, and assurance as to Texas Eastern's transportation of natural gas on behalf of the Pipeline.

In its Petition, Volkswagen contends that the Pipeline is an "intrastate pipeline" within the definition of NGPA section 2(16) by virtue of the application of NGPA section 601(a)(2)(A). Accordingly, Volkswagen asserts that Texas Eastern, an interstate pipeline, may transport natural gas on behalf of the Pipeline on a self-implementing basis pursuant to section 311 of the NGPA. Volkswagen, therefore, requests that the Commission declare the same.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 11, 1988, 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 ad 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 a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1524 Filed 1-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER88-195-000 et al.]

Carolina Power & Light Company et al.; Electric Rate and Corporate Regulation Filings

January 19, 1988.

Take notice that the following filings have been made with the Commission:

1. Carolina Power & Light Company

[Docket No. ER88-195-000]

Take notice that on January 13, 1988, Carolina Power & Light Company tendered for filing proposed changes in its Service Agreement FERC No. T1R1.S6. with the Halifax Electric Membership Corporation and Service Agreement FERC No. T1R1.S14. with the Randolph Electric Membership Corporation.

The Halifax EMC's Warrenton 12 kV point of delivery is being filed to reflect a mutually agreed upon capacity limitation of 2,850 kW or less for this point of delivery. Company and Customer agreed to this capacity limitation to avoid a transformer change at this point of delivery and to ensure continued service reliability.

The Randolph EMC's Spero 115 kV point of delivery is being filed to reflect the relocation of this point of delivery to the Spero 115 kV Switching Station, the changing of this point of delivery's metering voltage to 115 kV, and the installation of special metering facilities to provide metering pulse information as provided under Carolina Power & Light Company's additional facilities plan.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Cliffs Electric Service Company, et al.

[Docket No. ER88-162-000]

Take notice that on January 12, 1988, Cliffs Electric Service Company, et al. (Cliff Electric), tendered for filing two notices canceling the certificates of concurrence filed with respect to the 1978 Basic Agreement (Upper Peninsula Power Company Rate Schedule FERC No. 22) which was canceled pursuant to one of the notices filed in this Docket on December 24, 1987. Cliff Electric and Upper Peninsula Generating Company have both filed the Notices of Cancellation of Concurrence in filing of the 1978 Basic Agreement. Cliff Electric states that these notices will be effective on the same date as the Notice of Cancellation filed by the signatories to the 1978 Basic Agreement.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Detroit Edison Company

[Docket No. ER88-189-000]

Take notice that on January 12, 1988, Detroit Edison Company (DEC) tendered for filing a rate schedule in the form of a contract agreement between DEC and Wolverine Power Supply Cooperative, Inc. (Wolverine), dated December 14, 1987, and entitled "Power Supply Agreement Between Wolverine Power Supply Cooperatives, Inc. and the Detroit Edison Company" (Agreement).

DEC requests that this proposed rate schedule be made effective on January 1, 1988.

DEC states that the Agreement provides that DEC shall sell Wolverine firm capacity and associated energy at 100% load factor in accordance with a predetermined schedule. DEC further states that it is the intent of the parties to the Agreement that DEC will supply Wolverine with its full requirements for purchased firm capacity and energy and that DEC will make available additional capacity and energy to Wolverine on an interruptible basis. The rates contained in the Agreement for service commencing on January 1, 1988, are the same rates currently in effect for service to the Power Pool. The rates contained in the Agreement for service commencing with the commercial operation of Fermi 2 are the same as the rates currently on file and that will become effective for service to the Power Pool on the commercial operation of Fermi 2.

DEC also states that copies of the filing were served upon Wolverine and the Michigan Public Service Commission.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Detroit Edison Company

[Docket No. ER88-190-000]

Take notice that on January 12, 1988, Detroit Edison Company (Detroit Edison) tendered for filing proposed

changes in its FERC Electric Service Tariff Original Volume No. 1, and a notice of cancellation of its FERC Rate Schedule No. 14.

Detroit Edison states that the proposed changes in the tariff sheets do not provide for rate increases, but instead reflect a resolution of all outstanding service and rate matters with respect to jurisdictional sales, as evidenced by an Amendment to the Settlement Agreement between Detroit Edison and its jurisdictional customers which was submitted to and accepted for filing by this Commission in Docket No. ER85-513-000. Detroit Edison also states that the notice of cancellation of rate schedule No. 14 is issued as a result of the voluntary termination of an electric supply agreement by Southeastern Michigan Rural Electric Cooperative, the only customer taking service under the rate schedule.

Detroit Edison states that the service and rate matters resolved by the Amendment to the Settlement Agreement result in an extension of an interruptible service option to November 1, 1992, an administrative cost and line loss step-up charge associated with the option, an agreement to fix rates for firm service at the levels currently accepted and on file with the Commission until November 1, 1992, a recognition of additional expense associated with nuclear decommissioning costs, a recognition of expense reduction relating to the Tax Reform Act of 1986, and the availability of a new demand charge deferral and repayment option.

Copies of the filing were served upon the public utility's jurisdictional customers and the Michigan Public Service Commission.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Fitchburg Gas and Electric Light Company

[Docket No. ER88-191-000]

Take notice that on January 12, 1988, Fitchburg Gas and Electric Light Company (Fitchburg) tendered for filing as an initial rate schedule its Rate Schedule No. ____, pursuant to section 205 of the Federal Power Act and 18 CFR 35.12.

Fitchburg states that the purpose of its rate filing is to authorize Fitchburg to engage in short-term coordination transactions with other public utilities involving the purchase of capacity and energy produced by a combustion turbine owned and operated by Fitchburg. The rate filing provides for a negotiated rate for generation and transmission from the combustion turbine, subject to a maximum of $13.65 per kilowatt-year for generation and $27.48 per kilowatt-year for transmission. Charges for energy shall be the prorated actual fuel costs for the unit.

Fitchburg requests waiver of the Commission's notice requirements and an effective date of November 1, 1986, to account for the fact that several coordination transactions have already taken place.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Kansas Gas and Electric Company

[Docket No. ER88-120-000]

Take notice that on January 14, 1988, Kansas Gas and Electric Company (KG&E) tendered for filing an amendment of the agreement between the City of Savonburg, Kansas and KT&E. This executed agreement replaces the unexecuted agreement originally filed on November 27, 1987. KG&G states that the only difference between the unexecuted and executed agreement is a reduction in the initial term, specified in Article X, Section 10.1, from 10 years to 5 years.

Copies of this filing have been served upon all recipients of the November 27, 1987 filing.

KG&E requests waiver of the 60-day minimum filing requirement of 18 CFR 35.3 to permit the executed agreement to become effective February 1, 1988, the same day as the unexecuted agreement it replaces.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER88-193-000]

Take notice that on January 13, 1988, Montaup Electric Company (Montaup) tendered for filing an agreement under which Montaup has agreed to sell to Taunton Municipal Lighting Plant 1.7123% of the capacity and energy of the Canal No. 2 generating unit, in which Montaup holds a 50% joint ownership interest, for the 12 months beginning November 1, 1987. The sale is to be made in exchange for a reciprocal sale by Taunton to Montaup of 18.1818% of Taunton's Cleary No. 9 generating unit under another agreement. The arrangement represents a two-for-one exchange of intermediate and peaking capacity for base load capacity: 20 megawatts of Cleary No. 9 (18.1818% times the 110 megawatt net capability of that unit) in exchange for 10 megawatts of Canal No. 2 (1.7123% times the 584 megawatt net capability of Canal No. 2). The energy from each unit is to be sold at its actual cost. Since the 10 megawatts of Canal No. 2, a base load generating unit, and the 20 megawatts of Cleary No. 9, an intermediate and peaking unit, are considered by the parties to be of equal value the parties have agreed that there is to be no capacity charge for power sold from either unit.

Montaup requests waiver of the 60-day notice requirement in order to permit the filing to be effective on November 1, 1987 as the parties have agreed. The filing could not be made until both the Canal No. 2 and Cleary No. 9 agreements were executed, which did not occur until too late to meet the requirement. Granting the waiver will have no adverse effect on customers served under other rate schedules.

Copies of the filing have been served on Taunton and the Massachusetts Department of Public Utilities.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Montana Power Company

[Docket No. ER88-194-000]

Take notice that on January 12, 1988, Montana Power Company tendered for filing summaries of sales made under the Company's FERC Electric TARIFF, 2nd Revised Volume No. 1, during January 1987 through June 1987 with cost justifications for the rates charged.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Electric Power Company

[Docket No. ER88-177-000]

Take notice that on January 11, 1988, Southwestern Electric Power Company (SWEPCO) tendered for filing a supplement of calculations to SWEPCO's December 31, 1987 filing. SWEPCO states that on December 31, 1987 SWEPCO filed an Electric System Interconnection Agreement (Agreement), dated January 1, 1988, between SWEPCO and Cajun Electric Power Cooperative, Inc. (Cajun). SWEPCO also states that in the transmittal letter accompanying the filing, SWEPCO committed to providing Cajun and the Commission with calculations of the rates to be used temporarily in the first three months of 1988 pending the determination of estimated rates and charges for calendar year 1988 in accordance with the Agreement. Therefore, SWEPCO is filing the calculations made pursuant to the formulas included in the Agreement of

the estimated rates for service to be used in the first quarter of 1988.

Copies of this filing have been served upon Cajun and the Louisiana Public Service Commission.

SWEPCO respectfully requests that the Commission waiver its notice requirements and permit the Agreement to become effective as of January 1, 1988.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

10. Puget Sound Power & Light Company

[Docket No. ER88-186-000]

Take notice that on January 11, 1988, Puget Sound Power & Light Company (Puget) tendered for filing pursuant to 18 CFR 35.30(c) Appendix 1 to the Residential Purchase and Sale Agreement between Puget Sound Power & Light Company and Bonneville Power Administration. Puget states that this filing is also pursuant to the revised ASC methodology which was approved by the Federal Energy Regulatory Commission effective October 1, 1984.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

11. Tapoco, Incorporated

[Docket No. ER88-192-000]

Take notice that on January 13, 1988, Tapoco, Inc. (Tapoco) tendered for filing a document entitled Amendatory Agreement Between Tennessee Valley Authority and Tapoco, Inc. [Tapoco Rate Schedule No. 6]. The proposed modification consists of a new energy exchange agreement between Tapoco, Inc. and Tennessee Valley Authority (TVA) to replace in its entirety the current Tapoco Rate Schedule No. 6.

Tapoco states that under the Amendatory Agreement, Tapoco and the Aluminum Company of America (Alcoa) will reimburse TVA for a large negative energy bank balance through a combination of cash payments and energy paybacks, and the energy exchange arrangement between Tapoco and TVA will terminate in June 1990. Notwithstanding termination of the energy exchange arrangement, the Amendatory Agreement provides that TVA will retain rights to use certain Tapoco transmission facilities to provide service to other utilities.

Tapoco requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendatory Agreement be made effective retroactively to January 1, 1988.

Copies of the filing were served upon the TVA, the Tennessee Public Service Commission and the North Carolina Utilities Commission.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this document.

12. Union Electric

[Docket No. ER84-560-004]

Take notice that on January 14, 1988, Union Electric tendered for filing revised tariff sheets in compliance with Commission Opinion No. 279-A in Docket Nos. ER84-560-002 and 003 issued December 21, 1987 and the Opinion and Order Establishing Just and Reasonable Rates (Opinion 279) issued July 20, 1987 in Docket No. ER84-560-000. Also pursuant to Commission Order various schedules and workpapers have been filed.

Comment date: February 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-1515 Filed 1-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST88-464-000 et al.]

Natural Gas Policy Act; Transcontinental Gas Pipe Line Corp.; Self-Implementing Transactions

January 20, 1988.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interestate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to a § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations or pursuant to blanket certificate authority granted under § 284.225 or § 284.226 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before February 9, 1988, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0464	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-02-87	B		
ST88-0465	Transcontinental Gas Pipe Line Corp	City of Bessemer City	11-02-87	B		
ST88-0466	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	11-02-87	B		
ST88-0467	Transcontinental Gas Pipe Line Corp	Clinton Newberry Nat. Gas Authority.	11-02-87	B		
ST88-0468	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-02-87	B		
ST88-0469	Transcontinental Gas Pipe Line Corp	Mississippi Fuel Co	11-02-87	B		
ST88-0470	Transcontinental Gas Pipe Line Corp	City of Lexington	11-02-87	B		
ST88-0471	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-02-87	B		
ST88-0472	Transcontinental Gas Pipe Line Corp	Washington Gas Light Co	11-02-87	B		
ST88-0473	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	11-02-87	B		
ST88-0474	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp.	11-02-87	B		
ST88-0475	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-02-87	B		
ST88-0476	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	11-02-87	B		
ST88-0477	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	11-02-87	B		
ST88-0478	Transcontinental Gas Pipe Line Corp	Virginia Natural Gas Co	11-02-87	B		
ST88-0479	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-02-87	B		
ST88-0480	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	11-02-87	B		
ST88-0481	Transcontinental Gas Pipe Line Corp	Comm. of Public Works, City of Greer.	11-02-87	B		
ST88-0482	Transcontinental Gas Pipe Line Corp	Virginia Natural Gas Co	11-02-87	B		
ST88-0483	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	11-02-87	B		
ST88-0484	Transcontinental Gas Pipe Line Corp	City of Alexander	11-02-87	B		
ST88-0485	Transcontinental Gas Pipe Line Corp	City of Covington	11-02-87	B		
ST88-0486	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-02-87	B		
ST88-0487	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-02-87	B		
ST88-0488	Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co	11-02-87	B		
ST88-0489	Transcontinental Gas Pipe Line Corp	City of Elberton	11-02-87	B		
ST88-0490	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	11-02-87	B		
ST88-0491	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	11-02-87	B		
ST88-0492	Transcontinental Gas Pipe Line Corp	Orange and Rockland Utilities, Incc.	11-02-87	B		
ST88-0493	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-02-87	B		
ST88-0494	Transcontinental Gas Pipe Line Corp	Louisiana Resources Co	11-02-87	B		
ST88-0495	Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	11-02-87	B		
ST88-0496	Transcontinental Gas Pipe Line Corp	Bridgeline Gas Dist. Co., et al	11-02-87	B		
ST88-0497	Transcontinental Gas Pipe Line Corp	City of Bowman	11-02-87	B		
ST88-0498	Arkansas Western Gas Co	Associated Natural Gas Co	11-02-87	C		
ST88-0499	Arkla Energy Resources	Arkansas Western Gas Co	11-02-87	B		
ST88-0500	Gas Co. of NM (Div. Public Serv. Co. NM)	El Paso Natural Gas Co	11-02-87	C		
ST88-0501	Houston Pipe Line Co	Northern Natural Gas Co	11-02-87	C		
ST88-0502	Houston Pipe Line Co	Transcontinental Gas Pipe Line Corp.	11-02-87	C		
ST88-0503	Houston Pipe Line Co	Connecticut Light & Power Co	11-02-87	C		
ST88-0504	Houston Pipe Line Co	Boston Gas Co	11-02-87	C		
ST88-0505	Houston Pipe Line Co	Brooklyn Union Gas Co	11-02-87	C		
ST88-0506	Houston Pipe Line Co	Northern Natural Gas Co	11-02-87	C		
ST88-0507	Natural Gas Pipeline Co. of America	Pacific Gas and Electric Co	11-02-87	B		
ST88-0508	Oasis Pipe Line Co	El Paso Natural Gas Co	11-02-87	C		
ST88-0509	Oasis Pipe Line Co	Transcontinental Gas Pipe Line Corp.	11-02-87	C		
ST88-0510	Oasis Pipe Line Co	Southwest Gas Corp	11-02-87	C		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0511	Panhandle Gas Co	Connecticut Light & Power Co	11-02-87	D		
ST88-0512	Panhandle Gas Co	Southwest Gas Corp	11-02-87	D		
ST88-0513	Panhandle Gas Co	Boston Gas Co	11-02-87	D		
ST88-0514	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Co	11-02-87	G		
ST88-0515	Tennessee Gas Pipeline Co	Orange and Rockland Utilities, Inc.	11-02-87	B		
ST88-0516	Tennessee Gas Pipeline Co	Colonial Gas Company	11-02-87	B		
ST88-0517	Tennessee Gas Pipeline Co	Connecticut Light & Power Co	11-02-87	B		
ST88-0518	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	11-02-87	G		
ST88-0519	Tennessee Gas Pipeline Co	Baltimore Gas & Electric Co., et al.	11-02-87	B		
ST88-0520	Tennessee Gas Pipeline Co	Cent. Hudson Gas & Electric Co., et al.	11-02-87	B		
ST88-0521	Tennessee Gas Pipeline Co	Peoples Nat. Gas Co., et al	11-02-87	B		
ST88-0522	Tennessee Gas Pipeline Co	Long Island Lighting Co	11-02-87	B		
ST88-0523	Texas Eastern Transmission Corp	City of Lawrenceburg	11-02-87	B		
ST88-0524	Trunkline Gas Co	Philadelphia Gas Works	11-02-87	B		
ST88-0525	Trunkline Gas Co	Indiana Gas Co., Inc	11-02-87	B		
ST88-0526	Trunkline Gas Co	Northern Indiana Public Service Co.	11-02-87	B		
ST88-0527	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co.	11-03-87	B		
ST88-0528	Panhandle Eastern Pipe Line Co	Eastex Gas Transmission Co	11-03-87	B		
ST88-0529	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	11-03-87	B		
ST88-0530	Panhandle Eastern Pipe Line Co	Southeastern Michigan Gas Co	11-03-87	B		
ST88-0531	Panhandle Eastern Pipe Line Co	Union Electric Co	11-03-87	B		
ST88-0532	Panhandle Eastern Pipe Line Co	Eastex Gas Transmission Co	11-03-87	B		
ST88-0533	Panhandle Eastern Pipe Line Co	Cabot Pipeline Corp	11-03-87	B		
ST88-0534	Panhandle Eastern Pipe Line Co	Eastex Gas Transmission Co	11-03-87	B		
ST88-0535	Panhandle Eastern Pipe Line Co	Olympic Pipeline Co	11-03-87	B		
ST88-0536	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	11-03-87	B		
ST88-0537	Panhandle Eastern Pipe Line Co	Richmond Gas Corp	11-03-87	B		
ST88-0538	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	11-03-87	B		
ST88-0539	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	11-03-87	B		
ST88-0540	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	11-03-87	B		
ST88-0541	Tennessee Gas Pipeline Co	Colonial Gas Company	11-03-87	B		
ST88-0542	Tennessee Gas Pipeline Co	Commonwealth Gas Co	11-03-87	B		
ST88-0543	Tennessee Gas Pipeline Co	Cent. Hudson Gas & Electric Co., et al.	11-03-87	B		
ST88-0544	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	11-03-87	B		
ST88-0545	Tennessee Gas Pipeline Co	Boston Gas Co	11-03-87	B		
ST88-0546	Tennessee Gas Pipeline Co	Natural Gas Clearinghouse, Inc	11-03-87	G-S		
ST88-0547	Tennessee Gas Pipeline Co	Consolidated Edison Co. of NY, Inc.	11-03-87	B		
ST88-0548	Valero Transmission, L.P.	El Paso Natural Gas Co	11-03-87	C		
ST88-0549	Transcontinental Gas Pipe Line Corp	Hudson Pipeline Co., et al	11-03-87	B		
ST88-0550	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-03-87	B		
ST88-0551	Transcontinental Gas Pipe Line Corp	City of Greenwood	11-03-87	B		
ST88-0552	Transcontinental Gas Pipe Line Corp	Washington Gas Light Co., et al	11-03-87	B		
ST88-0553	Transcontinental Gas Pipe Line Corp	National Fuel Gas Distribution Corp.	11-03-87	B		
ST88-0554	Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co	11-03-87	B		
ST88-0555	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	11-03-87	B		
ST88-0556	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-03-87	B		
ST88-0557	Transcontinental Gas Pipe Line Corp	Valero Transmission Co	11-03-87	B		
ST88-0558	Transcontinental Gas Pipe Line Corp	UGI Corp	11-03-87	B		
ST88-0559	Transcontinental Gas Pipe Line Corp	Yankee Taft Co	11-03-87	B		
ST88-0560	Transcontinental Gas Pipe Line Corp	City of Union	11-03-87	B		
ST88-0561	Transcontinental Gas Pipe Line Corp	Tejas Gas Corp	11-03-87	B		
ST88-0562	Transcontinental Gas Pipe Line Corp	City of Shelby				
ST88-0563	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	11-03-87	B		
ST88-0564	Transcontinental Gas Pipe Line Corp	Fort Hill Natural Gas Authority	11-03-87	B		
ST88-0565	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	11-03-87	B		
ST88-0566	Natural Gas Pipeline Co. of America	Neches Pipeline System	11-03-87	B		
ST88-0567	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	11-03-87	B		
ST88-0568	Natural Gas Pipeline Co. of America	Tristar Energy, Inc	11-03-87	B		
ST88-0569	Natural Gas Pipeline Co. of America	Pacific Gas and Electric Co	11-03-87	B		
ST88-0570	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	11-03-87	B		
ST88-0571	Natural Gas Pipeline Co. of America	Pacific Gas and Electric Co	11-03-87	B		
ST88-0572	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	11-03-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0573	Natural Gas Pipeline Co. or America	Southern Calfironia Gas Co	11-03-87	B		
ST88-0574	Northern Natural Gas Co	Llano, Inc	11-04-67	B		
ST88-0575	ONG Transmission Co	Panhandle Eastern Pipe Line Co	11-04-87	C	04-02-88	10.00
ST88-0576	Panhandle Eastern Pipe Line Co	Union Electric Co	11-04-87	B		
ST88-0577	Tennessee Gas Pipeline Co	Loutex Energy, Inc	11-04-87	G-S		
ST88-0578	Tennessee Gas Pipeline Co	Eastex Gas Transmission Co	11-04-87	B		
ST88-0579	Tennessee Gas Pipeline Co	Llano, Inc	11-04-87	B		
ST88-0580	Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp.	11-04-87	B		
ST88-0581	United Gas Pipe Line Co	Wellhead Ventures Corp.,	11-04-87	B		
ST88-0582	United Gas Pipe Line Co	Louisiana State Gas Corp	11-04-87	B		
ST88-0583	United Gas Pipe Line Co	Louisiana State Gas Corp	11-04-87	B		
ST88-0584	United Gas Pipe Line Co	Houston Pipe Line Co	11-04-87	B		
ST88-0585	Acadian Gas Pipeline System	Columbia Gulf Transmission Co	11-05-87	C	04-03-88	15.50
ST88-0586	Algonquin Gas Transmission Co	Southern Connecticut Gas Co	11-05-87	B		
ST88-0587	Algonquin Gas Transmission Co	City of Norwich	11-05-87	B		
ST88-0588	El Paso Natural Gas Co	Gas Co. of NM (Div. Public Serv. Co. NM).	11-05-87	B		
ST88-0589	El Paso Natural Gas Co	Southern Union Gas Co	11-05-87	B		
ST88-0590	El Paso Natural Gas Co	Southern Union Gas Co	11-05-87	B		
ST88-0591	El Paso Natural Gas Co	Intratex Gas Co	11-05-87	B		
ST88-0592	El Paso Natural Gas Co	Pacific Gas and Electric Co	11-05-87	B		
ST88-0593	El Paso Natural Gas Co	Southwest Gas Corp	11-05-87	B		
ST88-0594	El Paso Natural Gas Co	City of Socorro	11-05-87	B		
ST88-0595	El Paso Natural Gas Co	Citizens Utilities Co	11-05-87	B		
ST88-0596	El Paso Natural Gas Co	El Paso Hydrocarbons Co	11-05-87	B		
ST88-0597	El Paso Natural Gas Co	Rio Grande Natural Gas Assoc.	11-05-87	B		
ST88-0598	El Paso Natural Gas Co	EMW Gas Association	11-05-87	B		
ST88-0599	El Paso Natural Gas Co	Black Mountain Gas Co	11-05-87	B		
ST88-0600	El Paso Natural Gas Co	City of Las Cruces	11-05-87	B		
ST88-0601	El Paso Natural Gas Co	City of Deming	11-05-87	B		
ST88-0602	El Paso Natural Gas Co	City of Lordsburg	11-05-87	B		
ST88-0603	El Paso Natural Gas Co	Navajo Tribal Utility Authority	11-05-87	B		
ST88-0604	El Paso Natural Gas Co	City of Mesa	11-05-87	B		
ST88-0605	El Paso Natural Gas Co	City of Willcox	11-05-87	B		
ST88-0606	Natural Gas Pipeline Co. of America	UGI Corp	11-05-87	B		
ST88-0607	Natural Gas Pipeline Co. of America	Winnie Pipeline Co	11-05-87	B		
ST88-0608	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	11-05-87	B		
ST88-0609	Panhandle Eastern Pipe Line Co	Peoples Gas Light Co., et al.	11-05-87	B		
ST88-0610	Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	11-05-87	B		
ST88-0611	Panhandle Eastern Pipe Line Co	Union Electric Co	11-05-87	B		
ST88-0612	Panhandle Eastern Pipe Line Co	NGC Intrastate Pipeline Co	11-05-87	B		
ST88-0613	Tennessee Gas Pipeline Co	Connecticut Light & Power Co	11-05-87	B		
ST88-0614	Tennessee Gas Pipeline Co	Wellhead Ventures Corp	11-05-87	B		
ST88-0615	Tennessee Gas Pipeline Co	Granite State Gas Transmission, Inc.	11-05-87	G		
ST88-0616	Tennessee Gas Pipeline Co	Wellhead Ventures Corp	11-05-87	B		
ST88-0617	Tennessee Gas Pipeline Co	Atlanta Gas Light Co., et al.	11-05-87	B		
ST88-0618	Tennessee Gas Pipeline Co	Tejas Power Corp	11-05-87	G-S		
ST88-0619	Trunkline Gas Co	Consumers Power Co	11-05-87	B		
ST88-0620	Trunkline Gas Co	Consumers Power Co	11-05-87	B		
ST88-0621	Trunkline Gas Co	Consumers Power Co	11-05-87	B		
ST88-0622	Trunkline Gas Co	Consumers Power Co	11-05-87	B		
ST88-0623	ONG Transmission Co	Panhandle Eastern Pipe Line Co	11-10-87	C	04-08-88	10.00
ST88-0624	Texas Gas Transmission Corp	Gulf South Pipeline Co	11-10-87	B		
ST88-0625	Transok, Inc	Phillips Gas Pipeline Co	11-10-87	C	04-08-88	21.75
ST88-0626	Columbia Gulf Transmission Co	Tennessee Gas Pipeline Co	11-09-87	G		
ST88-0627	Channel Industries Gas Co	Tennessee Gas Pipeline Co	11-09-87	C		
ST88-0628	Gulf Energy Pipeline Co	Tennessee Gas Pipeline Co	11-09-87	C		
ST88-0629	Houston Pipe Line Co	Transcontinental Gas Pipe Line Corp.	11-09-87	C		
ST88-0630	Houston Pipe Line Co	Northern Natural Gas Co	11-09-87	C		
ST88-0631	Houston Pipe Line Co	Northern Natural Gas Co	11-09-87	C		
ST88-0632	Houston Pipe Line Co	Northern Natural Gas Co	11-09-87	C		
ST88-0633	Houston Pipe Line Co	Florida Gas Transmission Co	11-09-87	C		
ST88-0634	Houston Pipe Line Co	American Distribution Co., Inc	11-09-87	C		
ST88-0635	Houston Pipe Line Co	El Paso Natural Gas Co	11-09-87	C		
ST88-0636	Houston Pipe Line Co	El Paso Natural Gas Co	11-09-87	C		
ST88-0637	Houston Pipe Line Co	El Paso Natural Gas Co	11-09-87	C		
ST88-0638	Oasis Pipe Line Co	El Paso Natural Gas Co	11-09-87	C		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0639	Oasis Pipe Line Co	El Paso Natural Gas Co	11-09-87	C		
ST88-0640	Oasis Pipe Line Co	Northern Natural Gas Co	11-09-87	C		
ST88-0641	Oasis Pipe Line Co	Northern Natural Gas Co	11-09-87	C		
ST88-0642	Oasis Pipe Line Co	El Paso Natural Gas Co	11-05-87	C		
ST88-0643	Houston Pipe Line Co	Texas Eastern Transmission Corp.	11-09-87	C		
ST88-0644	Oasis Pipe Line Co	El Paso Natural Gas Co	11-09-87	C		
ST88-0645	Panhandle Eastern Pipe Line Co	UGI Corp., et al	11-09-87	B		
ST88-0646	Panhandle Eastern Pipe Line Co	Transok, Inc	11-05-87	B		
ST88-0647	Panhandle Eastern Pipe Line Co	Ohio Gas Co	11-09-87	B		
ST88-0648	Panhandle Eastern Pipe Line Co	Northern Illinois Gas Co	11-09-87	B		
ST88-0649	Panhandle Eastern Pipe Line Co	Union Gas Limited	11-09-87	B		
ST88-0650	United Gas Pipe Line Co	Caddo Natural Gas Co	11-09-87	B		
ST88-0651	United Gas Pipe Line Co	Louisiana State Gas Corp	11-09-87	B		
ST88-0652	Colorado Interstate Gas Co	Southern Union Gas Co	11-06-87	B		
ST88-0653	Colorado Interstate Gas Co	Peoples Natural Gas Co	11-06-87	B		
ST88-0654	Colorado Interstate Gas Co	Northern Illinois Gas Co	11-06-87	B		
ST88-0655	Colorado Interstate Gas Co	Central Illinois Light Co	11-06-87	B		
ST88-0656	Colorado Interstate Gas Co	Associated Interstate Pipeline Co.	11-06-87	B		
ST88-0657	Lear Gas Transmission Co	Texas Eastern Transmission Corp.	11-06-87	C	04-04-88	21.50
ST88-0658	Lear Gas Transmission Co	Mississippi River Transmission Corp.	11-06-87	C	04-04-88	21.50
ST88-0659	Lear Gas Transmission Co	Texas Gas Transmission Corp	11-06-87	C	04-04-88	21.50
ST88-0660	Lear Gas Transmission Co	United Gas Pipe Line Co	11-06-87	C	04-04-88	21.50
ST88-0661	Lear Gas Transmission Co	Southern Natural Gas Co	11-06-87	C	04-04-88	21.50
ST88-0662	Natural Gas Pipeline Co. of America	Pacific Gas and Electric Co	11-06-87	B		
ST88-0663	Trunkline Gas Co	Consumers Power Co	11-06-87	B		
ST88-0664	Trunkline Gas Co	Consumers Power Co	11-06-87	B		
ST88-0665	Trunkline Gas Co	Consumers Power Co	11-06-87	B		
ST88-0666	Trunkline Gas Co	Consumers Power Co	11-06-87	B		
ST88-0667	Trunkline Gas Co	Consumers Power Co	11-06-87	B		
ST88-0668	Westar Transmission Co	Northern Natural Gas Co	11-06-87	C		
ST88-0669	Westar Transmission Co	El Paso Natural Gas Co	11-06-87	C		
ST88-00670	Colorado Interstate Gas Co	NGC Intrastate Pipeline Co	11-12-87	B		
ST88-0671	DOW Pipeline Co	Phillips Gas Pipeline Co	11-12-87	C	04-10-88	07.31
ST88-0672	Northern Natural Gas Co	Westar Transmission Co	11-12-87	B		
ST88-0673	Northern Natural Gas Co	Southern California Gas Co	11-12-87	B		
ST88-0674	Tennessee Gas Pipeline Co	TransAmerican Gas Transmission Corp.	11-12-87	B		
ST88-0675	Tennessee Gas Pipeline Co	TransAmerican Gas Transmission Corp.	11-12-87	B		
ST88-0676	Tennessee Gas Pipeline Co	TransAmerican Gas Transmission Corp.	11-12-87	B		
ST88-0677	Hill Transportation Co., Inc	Florida Gas Transmission Co	11-12-87	C	04-15-88	18.00
ST88-0679	Trunkline Gas Co	Consumers Power Co	11-12-87	B		
ST88-0680	Valero Transmission, L.P	Tennessee Gas Pipeline Co	11-12-87	C		
ST88-0681	Valero Transmission, L.P	Transcontinental Gas Pipe Line Corp.	11-12-87	C		
ST88-0682	Valero Transmission, L.P	Texas, Eastern, Transmission Corp.	11-12-87	C		
ST88-0683	El Paso Natural Gas Co	Pacific Gas and Electric Co	11-13-87	B		
ST88-0684	El Paso Natural Gas Co	Pacific Gas and Electric Co	11-13-87	B		
ST88-0685	El Paso Natural Gas Co	El Paso Hydrocarbons Co	11-13-87	B		
ST88-0686	El Paso Natural Gas Co	Peoples Natural Gas Co	11-13-87	B		
ST88-0687	El Paso Natural Gas Co	Gas Co. of NM (Div. Public Serv. Co. NM).	11-13-87	B		
ST88-0688	Delhi Gas Pipeline Corp	Peoples Natural Gas Co	11-13-87	C		
ST88-0689	Trunkline Gas Co	Consumers Power Co	11-13-87	B		
ST88-0690	Trunkline Gas Co	Consumers Power Co	11-13-87	B		
ST88-0691	ANR Pipeline Co	Wisconsin Southern Gas Co., Inc.	11-13-87	B		
ST88-0692	ANR Pipeline Co	Wisconsin Natural Gas Co	11-13-87	B		
ST88-0693	ANR Pipeline Co	Baltimore Gas and Electric Co	11-13-87	B		
ST88-0694	ANR Pipeline Co	Wisconsin Natural Gas Co	11-13-87	B		
ST88-0695	ANR Pipeline Co	Wisconsin Gas Co	11-13-87	B		
ST88-0696	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co.	11-13-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0697	Taft Pipeline Co	Northern Natural Gas Co	11-13-87	C	04-11-88	09.60
ST88-0698	Taft Pipeline Co	Northern Natural Gas Co	11-13-87	C	04-11-88	09.60
ST88-0699	Tennessee Gas Pipeline Co	Baltimore Gas and Electric Co	11-13-87	B		
ST88-0700	Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp.	11-13-87	G		
ST88-0701	Tennessee Gas Pipeline Co	North Penn Gas Co	11-13-87	B		
ST88-0702	Tennessee Gas Pipeline Co	Cameron Natural Gas Corp	11-13-87	G-S		
ST88-0703	Tennessee Gas Pipeline Co	City of Lexington	11-13-87	B		
ST88-0704	Texas Gas Transmission Corp	Cokinos Natural Gas Co	11-13-87	B		
ST88-0705	Texas Gas Transmission Corp	Indiana Natural Gas Corp	11-13-87	B		
ST88-0706	Texas Gas Transmission Corp	Central Illinois Public Service Co	11-13-87	B		
ST88-0707	Algonquin Gas Transmission Co	City of Norwich, Dept. of Public Util.	11-16-87	B		
ST88-0708	ANR Pipeline Co	Wisconsin Public Service Co	11-16-87	B		
ST88-0709	ANR Pipeline Co	Fountaintown Gas Co	11-16-87	B		
ST88-0710	Colorado Interstate Gas Co	Coastal States Gas Transmission Co.	11-16-87	B		
ST88-0711	Colorado Interstate Gas Co	Acacia Pipeline Corp., et al	11-16-87	B		
ST88-0712	Colorado Interstate Gas Co	Panda Resources, Inc	11-16-87	B		
ST88-0713	Tennessee Gas Pipeline Co	Consolidated Edison Co. of NY, Inc.	11-16-87	B		
ST88-0714	Tennessee Gas Pipeline Co	Columbia Gas of Virginia, Inc	11-16-87	B		
ST88-0715	Tennessee Gas Pipeline Co	Colonial Gas Company	11-16-87	B		
ST88-0716	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Co	11-16-87	G		
ST88-0717	Tennessee Gas Pipeline Co	Midwestern Gas Transmission Co.	11-16-87	G		
ST88-0718	Tennessee Gas Pipeline Co	Southern Gas Pipeline Co	11-16-87	B		
ST88-0719	Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	11-16-87	B		
ST88-0720	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	11-16-87	B		
ST88-0721	Transcontinental Gas Pipe Line Corp	Long Island Lighting Co	11-16-87	B		
ST88-0722	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	11-16-87	B		
ST88-0723	Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	11-16-87	B		
ST88-0724	Transcontinental Gas Pipe Line Corp	Fort Hill Natural Gas Authority	11-16-87	B		
ST88-0725	Transcontinental Gas Pipe Line Corp	United Cities Gas Co	11-16-87	B		
ST88-0726	Western Transmission Corp	Southern California Gas Co	11-16-87	B		
ST88-0727	Cabot Pipeline Corp	El Paso Natural Gas Co	11-17-87	C		
ST88-0728	Natural Gas Pipeline Co. of America	Monarch Gas Co	11-17-87	B		
ST88-0729	Tennessee Gas Pipeline Co	CNG Trading Co	11-17-87	G-S		
ST88-0730	Tennessee Gas Pipeline Co	Bay State Gas Co., et al	11-17-87	B		
ST88-0731	Tennessee Gas Pipeline Co	South Carolina Pipeline Corp	11-17-87	B		
ST88-0732	Texas Eastern Transmission Corp	New York State Electric and Gas Co.	11-17-87	B		
ST88-0733	Texas Eastern Transmission Corp	Central Illinois Public Service Co	11-17-87	B		
ST88-0734	Texas Eastern Transmission Corp	Allied Gas Co	11-17-87	B		
ST88-0735	Texas Eastern Transmission Corp	Elizabethtown Gas Co	11-17-87	B		
ST88-0736	Texas Eastern Transmission Corp	Columbia Gas of Ky, Inc., et al	11-17-87	B		
ST88-0737	Texas Eastern Transmission Corp	American Distribution Co., Inc	11-17-87	B		
ST88-0738	Texas Eastern Transmission Corp	Public Service Electric and Gas Co.	11-17-87	B		
ST88-0739	Texas Eastern Transmission Corp	New York State Electric and Gas Co.	11-17-87	B		
ST88-0740	Texas Eastern Transmission Corp	Southern Indiana Gas & Electric Co.	11-17-87	B		
ST88-0741	Texas Eastern Transmission Corp	Baltimore Gas and Electric Co	11-17-87	B		
ST88-0742	Trunkline Gas Co	Consumers Power Co	11-17-87	B		
ST88-0743	Trunkline Gas Co	Consumers Power Co	11-17-87	B		
ST88-0744	Trunkline Gas Co	Consumers Power Co	11-17-87	B		
ST88-0745	Trunkline Gas Co	Consumers Power Co	11-17-87	B		
ST88-0746	Trunkline Gas Co	Consumers Power Co	11-17-87	B		
ST88-0747	Tennessee Gas Pipeline Co	Delhi Gas Pipeline Corp	11-18-87	B		
ST88-0748	Tennessee Gas Pipeline Co	Alabama-Tennessee Natural Gas Co.	11-18-87	G		
ST88-0749	Tennessee Gas Pipeline Co	Columbia Gas of Ohio, Inc	11-18-87	B		
ST88-0750	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas & Water Co., et al.	11-18-87	B		
ST88-0751	Transcontinental Gas Pipe Line Corp	Commonwealth Gas Pipeline Corp.	11-18-87	B		
ST88-0752	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-18-87	B		
ST88-0755	Transcontinental Gas Pipe Line Corp	Bridgeline Gas Distribution Co., et al.	11-18-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0754	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-18-87	B		
ST88-0755	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-18-87	B		
ST88-0756	Transcontinental Gas Pipe Line Corp	Long Island Lighting Co	11-18-87	B		
ST88-0757	Transcontinental Gas Pipe Line Corp	Corpus Christi Industrial Pipeline Co.	11-18-87	B		
ST88-0758	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-18-87	B		
ST88-0759	Transcontinental Gas Pipe Line Corp	City of Roanoke	11-18-87	B		
ST88-0760	Transcontinental Gas Pipe Line Corp	Dayton Power & Light Co., et al.	11-18-87	B		
ST88-0761	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co.	11-18-87	B		
ST88-0762	Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	11-18-87	B		
ST88-0763	Transcontinental Gas Pipe Line Corp	Varibus Corp	11-18-87	B		
ST88-0764	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	11-18-87	B		
ST88-0765	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	11-18-87	B		
ST88-0766	Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co	11-18-87	B		
ST88-0767	Transcontinental Gas Pipe Line Corp	Tristar Energy, Inc.	11-18-87	B		
ST88-0768	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co.	11-18-87	B		
ST88-0769	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	11-18-87	B		
ST88-0770	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp.	11-18-87	B		
ST88-0771	Transcontinental Gas Pipe Line Corp	Pontchartrain Natural Gas System.	11-18-87	B		
ST88-0772	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-18-87	B		
ST88-0773	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	11-18-87	B		
ST88-0774	Transcontinental Gas Pipe Line Corp	City of Linden	11-18-87	B		
ST88-0775	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	11-18-87	B		
ST88-0776	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-18-87	B		
ST88-0777	Transcontinental Gas Pipe Line Corp	Columbia Gas Dist. Co. of Ohio, Inc., et al.	11-18-87	B		
ST88-0778	Transcontinental Gas Pipe Line Corp	Frederick Gas Co	11-18-87	B		
ST88-0779	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-18-87	B		
ST88-0780	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-18-87	B		
ST88-0781	Colorado Interstate Gas Co	Coastal States Gas Transmission Co.	11-18-87	B		
ST88-0782	Blue Dolphin Pipe Line Co	Dow Chemical Co	11-19-87	G-S		
ST88-0783	Delhi Gas Pipeline Corp	Anr Pipeline Co	11-19-87	C	04-17-88	35.00
ST88-0784	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	11-19-87	B		
ST88-0785	Northern Natural Gas Co	NGP Pipeline Co	11-19-87	B		
ST88-0786	Sea Robin Pipeline Co	United Cities Gas Co	11-19-87	B		
ST88-0787	Tennessee Gas Pipeline Co	Coastal States Gas Transmission Co.	11-19-87	B		
ST88-0788	Tennessee Gas Pipeline Co	Providence Gas Co	11-19-87	B		
ST88-0789	Tennessee Gas Pipeline Co	Mid Louisiana Gas Co	11-19-87	G		
ST88-0790	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Co.	11-19-87	G		
ST88-0791	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	11-19-87	B		
ST88-0792	United Gas Pipe Line Co	Wellhead Ventures Corp	11-19-87	B		
ST88-0793	United Gas Pipe Line Co	Bishop Pipeline Corp	11-19-87	B		
ST88-0794	Arkla Energy Resources	Madison Gas & Electric Co	11-20-87	B		
ST88-0795	Arkla Energy Resources	Louisiana Gas Service Co	11-20-87	B		
ST88-0796	Dow Pipeline Co	Neches Gas Distribution Co	11-20-87	C	04-18-88	07.31
ST88-0797	El Paso Natural Gas Co	Southern Union Gas Co	11-20-87	B		
ST88-0798	Northern Natural Gas Co	Northern States Power Co., et al.	11-20-87	B		
ST88-0799	Northern Natural Gas Co	Rural Energy Systems, Inc	11-20-87	B		
ST88-0800	Northern Natural Gas Co	Southern Union Gas Co	11-20-87	B		
ST88-0801	Northern Natural Gas Co	Hutchinson Utility Commission	11-20-87	B		
ST88-0802	Panhandle Eastern Pipe Line Co	Northern Illinois Gas Co	11-20-87	B		
ST88-0803	Texas Eastern Transmission Corp	UGI Corp	11-20-87	B		
ST88-0804	Texas Eastern Transmission Corp	City of Richmond	11-20-87	B		
ST88-0805	Texas Eastern Transmission Corp	Associated Natural Gas Co	11-20-87	B		
ST88-0806	Texas Eastern Transmission Corp	Smyrna Natural Gas System	11-20-87	B		
ST88-0807	Texas Eastern Transmission Corp	Midwest Natural Gas Corp	11-20-87	B		
ST88-0808	Texas Eastern Transmission Corp	City of New Roads Gas System	11-20-87	B		
ST88-0809	Texas Eastern Transmission Corp	Lawrenceburg Gas Co., Brookville Div.	11-20-87	B		
ST88-0810	Texas Eastern Transmission Corp	Mt. Carmel Public Utility Co	11-20-87	B		
ST88-0811	Texas Eastern Transmission Corp	Red Bay Water Works and Gas Board.	11-20-87	B		
ST88-0812	Transcontinental Gas Pipe Line Corp	Union Gas Co	11-20-87	B		
ST88-0813	Transcontinental Gas Pipe Line Corp	Pontchartrain Natural Gas System.	11-20-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0814	Transcontinental Gas Pipe Line Corp	New York State Electric and Gas Co.	11-20-87	B		
ST88-0815	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	11-20-87	B		
ST88-0816	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-20-87	B		
ST88-0817	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-20-87	B		
ST88-0818	Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co	11-20-87	B		
ST88-0819	Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	11-20-87	B		
ST88-0820	Transcontinental Gas Pipe Line Corp	Union Gas Co	11-20-87	B		
ST88-0821	Transcontinental Gas Pipe Line Corp	City of Kings Mountain	11-20-87	B		
ST88-0822	Transcontinental Gas Pipe Line Corp	City of Danville	11-20-87	B		
ST88-0823	Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co	11-20-87	B		
ST88-0824	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-20-87	B		
ST88-0825	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	11-20-87	B		
ST88-0826	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co.	11-20-87	B		
ST88-0827	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	11-20-87	B		
ST88-0828	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	11-20-87	B		
ST88-0829	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp.	11-20-87	B		
ST88-0830	ANR Pipeline Co	Michigan Consolidated Gas Co	11-20-87	B		
ST88-0831	ANR Pipeline Co	Consumers Power Co	11-20-87	B		
ST88-0832	ANR Pipeline Co	Madison Gas & Electric Co	11-20-87	B		
ST88-0833	ANR Pipeline Co	Madison Gas & Electric Co	11-20-87	B		
ST88-0834	ANR Pipeline Co	Madison Gas & Electric Co	11-20-87	B		
ST88-0835	ANR Pipeline Co	Madison Gas & Electric Co	11-20-87	B		
ST88-0836	ANR Pipeline Co	Madison Gas & Electric Co	11-20-87	B		
ST88-0837	ANR Pipeline Co	Great River Gas Co	11-20-87	B		
ST88-0838	ANR Pipeline Co	Associated Intrastate Pipeline Co.	11-20-87	B		
ST88-0839	Columbia Gas Transmission Corp	Northeast Ohio Natural Gas Corp.	11-20-87	B		
ST88-0840	Louisiana Intrastate Gas Corp	Columbia Gas Transmission Corp.	11-20-87	C	04-18-88	27.40
ST88-0841	Tennessee Gas Pipeline Co	Alabama-Tennessee Natural Gas Co.	11-20-87	G		
ST88-0842	Tennessee Gas Pipeline Co	Cabot Corp	11-20-87	B		
ST88-0843	Tennessee Gas Pipeline Co	Public Service Electric & Gas Co., et al.	11-20-87	B		
ST88-0844	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corp.	11-23-87	C		
ST88-0845	Delhi Gas Pipeline Corp	New York State Electric and Gas Co.	11-23-87	C		
ST88-0846	Natural Gas Pipeline Co. of America	Panhandle Gas Co	11-23-87	B		
ST88-0847	Natural Gas Pipeline Co. of America	Eastex Gas Transmission Co	11-23-87	B		
ST88-0848	Natural Gas Pipeline Co. of America	Midwest Gas Co	11-23-87	B		
ST88-0849	Sabine Pipe Line Co	Bridgeline Gas Distribution Co	11-23-87	B		
ST88-0850	Tennessee Gas Pipeline Co	Mountainer Gas Co	11-23-87	B		
ST88-0851	Tennessee Gas Pipeline Co	Amalgamated Pipeline Co	11-23-87	B		
ST88-0852	Tennessee Gas Pipeline Co	Cranberry Pipeline Corp	11-23-87	B		
ST88-0853	Tennessee Gas Pipeline Co	Quivira Gas Co	11-23-87	B		
ST88-0854	Tennessee Gas Pipeline Co	Polaris Corp	11-23-87	B		
ST88-0855	Tennessee Gas Pipeline Co	Excel Intrastate Pipeline Co	11-23-87	B		
ST88-0856	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	11-23-87	B		
ST88-0857	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	11-23-87	B		
ST88-0858	Texas Eastern Transmission Corp	Dayton Power and Light Co	11-23-87	B		
ST88-0859	Texas Eastern Transmission Corp	Consumers Power Co	11-23-87	B		
ST88-0860	Texas Eastern Transmission Corp	Community Natural Gas Co., Inc	11-23-87	B		
ST88-0861	Texas Eastern Transmission Corp	Columbia Gas of Maryland, Inc	11-23-87	B		
ST88-0862	Texas Eastern Transmission Corp	Columbia Gas of Pennsylvania, Inc.	11-23-87	B		
ST88-0863	Texas Eastern Transmission Corp	Boston Gas Co	11-23-87	B		
ST88-0864	Texas Eastern Transmission Corp	Indiana Gas Co., Inc	11-23-87	B		
ST88-0865	Texas Eastern Transmission Corp	Columbia Gas of New York, Inc	11-23-87	B		
ST88-0866	Texas Eastern Transmission Corp	Columbia Gas of Kentucky, Inc	11-23-87	B		
ST88-0867	Texas Eastern Transmission Corp	Columbia Gas of Virginia, Inc	11-23-87	B		
ST88-0868	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-23-87	B		
ST88-0869	Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co	11-23-87	B		
ST88-0870	Transcontinental Gas Pipe Line Corp	Baltimore Gas & Electric Co., et al.	11-23-87	B		
ST88-0871	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-23-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0872	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-23-87	B		
ST88-0873	Transcontinental Gas Pipe Line Corp	Baltimore Gas & Electric Co., et al.	11-23-87	B		
ST88-0874	Transcontinental Gas Pipe Line Corp	City of Bessemer City	11-23-87	B		
ST88-0875	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-23-87	B		
ST88-0876	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	11-23-87	B		
ST88-0877	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp.	11-23-87	B		
ST88-0878	Transcontinental Gas Pipe Line Corp	Orange and Rockland Utilities, Inc.	11-23-87	B		
ST88-0879	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-23-87	B		
ST88-0880	Transcontinental Gas Pipe Line Corp	North Carolina Gas Service Co	11-23-87	B		
ST88-0881	Trunkline Gas Co	Consumers Power Co	11-23-87	B		
ST88-0882	Trunkline Gas Co	Consumers Power Co	11-23-87	B		
ST88-0883	Trunkline Gas Co	Consumers Power Co	11-23-87	B		
ST88-0884	Trunkline Gas Co	Victoria Gas Corp	11-23-87	B		
ST88-0885	Trunkline Gas Co	Philadelphia Elect. Co., et al	11-23-87	B		
ST88-0886	Trunkline Gas Co	Consumers Power Co	11-23-87	B		
ST88-0887	Columbia Gulf Transmission Co	LGS Intrastate, Inc	11-23-87	B		
ST88-0888	Columbia Gulf Transmission Co	Brooklyn Union Gas Co., et al	11-23-87	B		
ST88-0889	Columbia Gulf Transmission Co	Transcontinental Gas Pipe Line Corp.	11-23-87	G		
ST88-0890	Colorado Interstate Gas Co	Energy Pipeline Co	11-23-87	B		
ST88-0891	Colorado Interstate Gas Co	Central Illinois Light Co	11-23-87	B		
ST88-0892	Colorado Interstate Gas Co	Kansas Power and Light Co	11-23-87	B		
ST88-0893	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	11-24-87	B		
ST88-0894	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co.	11-24-87	B		
ST88-0895	Panhandle Eastern Pipe Line Co	Kansas Power and Light Co	11-24-87	B		
ST88-0896	Panhandle Eastern Pipe Line Co	Michigan Gas Utilities Co	11-24-87	B		
ST88-0897	Panhandle Eastern Pipe Line Co	Consumers Power Co	11-24-87	B		
ST88-0898	Panhandle Eastern Pipe Line Co	Kansas Power and Light Co	11-24-87	B		
ST88-0899	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co.	11-24-87	B		
ST88-0900	Panhandle Eastern Pipe Line Co	Battle Creek Gas Co	11-24-87	B		
ST88-0901	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	11-24-87	B		
ST88-0902	Panhandle Eastern Pipe Line Co	Kansas Power and Light Co	11-24-87	B		
ST88-0903	Panhandle Eastern Pipe Line Co	Kansas Power and Light Co	11-24-87	B		
ST88-0904	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co.	11-24-87	B		
ST88-0905	Panhandle Eastern Pipe Line Co	Michigan Gas Utilities Co	11-24-87	B		
ST88-0906	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co.	11-24-87	B		
ST88-0907	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co.	11-24-87	B		
ST88-0908	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co.	11-24-87	B		
ST88-0909	Panhandle Eastern Pipe Line Co	Battle Creek Gas Co	11-24-87	B		
ST88-0910	El Paso Natural Gas Co	Iowa Illinois Gas & Elect. Co., et al.	11-25-87	B		
ST88-0911	El Paso Natural Gas Co	Southern California Gas Co	11-25-87	B		
ST88-0912	El Paso Natural Gas Co	Southern California Gas Co	11-25-87	B		
ST88-0913	El Paso Natural Gas Co	Lear Gas Transmission Co	11-25-87	B		
ST88-0914	El Paso Natural Gas Co	Sunshine Energy Co	11-25-87	B		
ST88-0915	El Paso Natural Gas Co	Pacific Gas and Electric Co	11-25-87	B		
ST88-0916	ONG Transmission Co	Natural Gas Pipeline Co. of America.	11-25-87	C	04-23-88	10.00
ST88-0917	Phillips Gas Pipeline Co	Phillips Natural Gas Co	11-25-87	B		
ST88-0918	Phillips Gas Pipeline Co	Phillips Natural Gas Co	11-25-87	B		
ST88-0919	Tennessee Gas Pipeline Co	Alabama-Tennessee Natural Gas Co.	11-25-87	G		
ST88-0920	Tennessee Gas Pipeline Co	Tenneco Oil Co	11-25-87	G-S		
ST88-0921	Tennessee Gas Pipeline Co	Dayton Power and Light Co	11-25-87	B		
ST88-0922	Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	11-25-87	B		
ST88-0923	Tennessee Gas Pipeline Co	Baltimore Gas & Electric Co., et al.	11-25-87	B		
ST88-0924	Tennessee Gas Pipeline Co	National Fuel Gas Distribution Corp.	11-25-87	B		
ST88-0925	Tennessee Gas Pipeline Co	Tenngasco, Inc	11-25-87	G-S		
ST88-0926	Tennessee Gas Pipeline Co	East Ohio Gas Co., et al	11-25-87	B		
ST88-0927	Tennessee Gas Pipeline Co	Gulf Coast Energy, Inc	11-25-87	B		
ST88-0928	Tennessee Gas Pipeline Co	Dayton Power and Light Co	11-25-87	B		
ST88-0929	Tennessee Gas Pipeline Co	Warrior Basin Gas Co	11-25-87	B		
ST88-0930	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Co.	11-25-87	G		
ST88-0931	Texas Eastern Transmission Corp	City of Pulaski	11-25-87	B		
ST88-0932	Texas Eastern Transmission Corp	Tejas Gas Corp	11-25-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST88-0933	Texas Eastern Transmission Corp	Philadelphia Electric Co	11-25-87	B		
ST88-0934	Texas Eastern Transmission Corp	City of Liberty	11-25-87	B		
ST88-0935	Texas Eastern Transmission Corp	Equitable Gas Co	11-25-87	B		
ST88-0936	Texas Eastern Transmission Corp	Consolidated Edison Co. of NY, Inc.	11-25-87	B		
ST88-0937	Texas Eastern Transmission Corp	Mt. Carmel Public Utility Co	11-25-87	B		
ST88-0938	Texas Eastern Transmission Corp	Quivira Gas Co	11-25-87	B		
ST88-0939	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	11-25-87	B		
ST88-0940	Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	11-25-87	B		
ST88-0941	Texas Eastern Transmission Corp	Rochester Gas & Electric Corp	11-25-87	B		
ST88-0942	Texas Eastern Transmission Corp	City of Utica	11-25-87	B		
ST88-0943	Texas Eastern Transmission Corp	Consumers Gas Co., et al	11-25-87	B		
ST88-0944	Texas Eastern Transmission Corp	City of Thompkinsville	11-25-87	B		
ST88-0945	Valero Transmission, L.P	Natural Gas Pipeline Co. of America.	11-25-87	C		
ST88-0946	United Gas Pipe Line Co	Eastex Gas Transmission Co	11-25-87	B		
ST88-0947	Texas Gas Transmission Corp	Niagara Mohawk Power Corp	11-25-87	B		
ST88-0948	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co.	11-30-87	B		
ST88-0949	Texas Gas Transmission Corp	Louisville Gas & Electric Co	11-25-87	B		
ST88-0950	Texas Gas Transmission Corp	City of Hamilton	11-25-87	B		
ST88-0951	United Gas Pipe Line Co	Bishop Pipeline Corp	11-25-87	B		
ST88-0952	United Gas Pipe Line Co	Richardson Fuels, Inc	11-25-87	B		
ST88-0953	Tennessee Gas Pipeline Co	Peoples Natural Gas Co	11-27-87	B		
ST88-0954	Tennessee Gas Pipeline Co	Iowa Southern Utilities Co., et al	11-27-87	B		
ST88-9055	El Paso Natural Gas Co	Southern California Gas Co	11-30-87	B		
ST88-0956	El Paso Natural Gas Co	Southern California Gas Co	11-30-87	B		
ST88-0957	Natural Gas Piepline Co. of America	Reynolds Pipeline Systems, Inc	11-30-87	B		
ST88-0958	Natural Gas Pipeline Co. of America	Victoria Gas Corp	11-30-87	B		
ST88-0959	Panhandle Eastern Pipe Line Co	Yankee Pipeline Co	11-30-87	B		
ST88-0960	Panhandle Eastern Pipe Line Co	Northern Illinois Gas Co	11-30-87	B		
ST88-0961	Panhandle Eastern Pipe Line Co	Yankee Pipeline Co	11-30-87	B		
ST88-0962	Panhandle Eastern Pipe Line Co	Union Electric Co	11-30-87	B		
ST88-0964	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	11-30-87	B		
ST88-0965	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	11-30-87	B		
ST88-0966	Panhandle Eastern Pipe Line Co	Union Electric Co	11-30-87	B		
ST88-0967	Seagull Energy Corp	El Paso Natural Gas Co	11-30-87	C		
ST88-0968	Trunkline Gas Co	Valero Transmission, L.P	11-30-87	B		
ST88-0969	Trunkline Gas Co	Central Illinois Light Co	11-30-87	B		

Below are seventeen filings noticed out of sequence. The first filing, ST87-2399, is a revised petition for rate approval. It is noticed at this time to give interested parties the appropriate 150-day comment period. The other sixteen filings are initial reports filed by Transcontinental Gas Pipeline Corp., Docket Nos. ST88-1342 thru ST88-1357.

ST88-2399	Acadian Gas Pipeline System	Texas Eastern Transmission Corp.	11-13-87	C	04-11-88	15.
ST88-1342	Transcontinental Gas Pipe Line Corp	Consumer Power Corp	11-30-87	B		
ST88-1343	Transcontinental Gas Pipe Line Corp	Corpus Christi Indust. Pipeline Co., et al.	11-30-87	B		
ST88-1344	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-30-87	B		
ST88-1345	Transcontinental Gas Pipe Line Corp	Utilities Board, City of Linden	11-30-87	B		
ST88-1346	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp.	11-30-87	B		
ST88-1347	Transcontinental Gas Pipe Line Corp	Washington Gas Light Co	11-30-87	B		
ST88-1348	Transcontinental Gas Pipe Line Corp	North Carolina Gas Service	11-30-87	B		
ST88-1349	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co.	11-30-87	B		
ST88-1350	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-30-87	B		
ST88-1351	Transcontinental Gas Pipe Line Corp	Louisiana Natural Gas Pipeline, Inc.	11-30-87	B		
ST88-1352	Transcontinental Gas Pipe Line Corp	Public Service Elect. and Gas Co.	11-30-87	B		
ST88-1353	Transcontinental Gas Pipe Line Corp	Public Service Elect. and Gas Co.	11-30-87	B		
ST88-1354	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp., et al	11-30-87	B		
ST88-1355	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-30-87	B		
ST88-1356	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	11-30-87	B		
ST88-1357	Transcontinental Gas Pipe Line Corp	Louisiana Gas Marketing Co	11-30-87	B		

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (Final Rule and Notice Requesting Supplemental Comments, 50 FR 42372, 10/18/85).

[2] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to § 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 88-1521 Filed 1-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-32-006 [1]]

Williams Natural Gas Co.; Compliance Filing and Offer of Settlement

January 19, 1988.

Take notice that on January 4, 1988, Williams Natural Gas Company (WNG) filed in these dockets a compliance filing pursuant to the Commission's orders of February 20, 1987 (38 FERC ¶61,170) and November 4, 1987 (41 FERC ¶61,141) in Docket Nos. RP86-32, et al.

WNG states that it accepts the July 18, 1986 Order No. 436 open-access Stipulation and Agreement as modified and conditioned by the Commission's orders in Docket Nos. RP86-32, et al., as specifically provided in the Revised Stipulation and Agreement (January 4, 1988) submitted as its compliance filing.

WNG states that the Revised Stipulation and Agreement explicity sets forth in a clear and concise governing document various modifications in the July 18, 1986 Stipulation and Agreement consistent with the requirements of the Commission's orders. The Company further states that such Revised Stipulation and Agreement resolves or addresses certain interrelated matters which have arisen subsequent to the submission of the original July 18, 1986 Stipulation and Agreement.

WNG states that copies of its compliance filing have been mailed to its authorized purchasers and interested state commissions, and have also been served on all participants in the above-referenced dockets.

Any person desiring to be heard or to protest said filing or to comment on WNG's offer of settlement should file comments or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.602 and 385.211 of the Commission's Rules of Practice and procedure (18 CFR 385.602, 385.211). All such comments or protests should be filed on or before February 2, 1988, with reply comments due on or before February 12, 1988. Comments and 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 pursuant to § 385.214. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 88-1527 Filed 1-25-88; 8:45 am]
BILLING CODE 6717-01-M

[1] The filing submitted January 4, 1988, also includes Docket Nos. RP86-68, CP86-631, CI86-594, CI86-596, RP86-155, RP87-33, CP87-171, CP87-172, CI87-239, TA87-3-43, and TA88-1-43.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3318-7]

Notification of Proposed Approval of Declarations of Exemptions for Review of Stack Height Rules, Philadelphia and Allegheny Counties; Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Notification of proposed approval of Stack Height negative declarations and opportunity for public comment.

SUMMARY: This Notice announces the availability of documentation to support declaration of exemptions of certain sources from further review under the revised stack height regulations. Philadelphia and Allegheny Counties, of the Comonwealth of Pennsylvania, have declared that the emission limits for certain sources need not be reviewed because of revised stack height regulations because those sources were constructed before December 31, 1970, (grandfathered), have stacks less than formula height, or have emission limits unaffected by stack height. This Notice will list the sources, briefly describe the exemption and invite public comment on the proposed actions. No change in the State Implementation Plan (SIP) or applicable emission limits is contemplated as a result of this Notice.

DATE: Comments must be received on or before February 25, 1988.

ADDRESSES: Copies of the documentation supporting the negative determinations are available for public inspection during normal business hours at: U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Denis M. Lohman.

All comments on the proposed approval of the negative declarations of applicability submitted within 30 days of publication of this Notice will be considered. Comments should be directed to Mr. Joseph Kunz, Chief PA/WV Section, EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Denis Lohman (3AM11) at the EPA, Region III address above or telephone (215) 597-8375.

SUPPLEMENTARY INFORMATION: Section 123 of the Clean Air Act (Act) requires EPA to promulgate rules to assure that the degree of emission limitations required for the control of any air pollutant under an applicable SIP is not affected by stack heights exceeding good engineering practice (GEP) height or by any other dispersion technique. The EPA promulgated revised final regulations to implement section 123 on July 8, 1985 (50 FR 27892). Pursuant to section *406(d)(2)* of the Act, all States are required to review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above GEP.

The local Air Pollution Control Agencies representing the counties of Philadelphia and Allegheny in Pennsylvania have each submitted inventories of all stacks within their respective jurisdictions, exceeding the de minimis GEP height of 65 meters. Allegheny County, on April 7, 1986, and Philadelphia on April 9, 1986, submitted documentation of evidence to demonstrate that the stacks listed on their respective inventories were not subject to review because they were in existence before the applicable date specified in section 123 (December 31, 1970), at or below GEP height determined in accordance with the EPA regulation, or had emission limits not affected by stack height. The proposed approval of the documentation is in the subject of this Notice.

Philadelphia

Within Philadelphia, there are 22 stacks with heights greater than the de minimis height of 65 meters. All but one of these stacks were in existence prior to December 31, 1970. The description and summary of the documentary evidence for 20 of the stacks is contained in Table 1. Ten of the stacks listed in Table 1 are at Philadelphia Electric Company (PECO) facilities. The last three (3) companies listed in Table 1, with a total of seven (7) stacks, have discontinued operation. The reactivation of any of those stacks would require analysis for new source review and the source(s) would be regulated in conformance with the EPA stack height regulation.

In addition to these 20 stacks described above one stack, at PGW-Station-A, is a flare not subject to the stack height regulation. Finally, the only tall stack in Philadelphia constructed after 1970 is identified as stack 6 at the

PECO-Schuylkill Plant. The boilerhouse near that stack has a height (H) of 139 feet and a projected width (L) of 88 feet. The EPA formula for determining GEP height (H_g) based upon building dimension sets $H_g = H + 1.5L$. For stack 6 at PECO-Schuylkill, the GEP height is 271 feet (82.6 meters). The actual stack height of 255 feet (77.7 meters) is less than the GEP height and no review of the emission limitations is required by the stack height rule.

In addition to the Philadelphia stacks, there is one facility, Chevron U.S.A., Inc. (formerly Gulf Oil Co.), with an allowable sulfur dioxide (SO_2) limit greater than 5000 tons per year. At Chevron, there are three groups of sources which have utilized the "potentially" prohibited dispersion technique of merged gas streams. Chevron has provided documentation, in the form of permit applications and a contractor report, showing that these sources were installed with the merged gas streams prior to December 31, 1970.

TABLE 1

PHILADELPHIA, PA

[Stack heights Greater than 65m in existence prior to 12/31/70]

Company	Stack	Height(m)	Documentation evidence
PECO-Edison	1	114	Permit dated 8/29/67.
PECO-Schuykill	1-2	69	Identified on property plan revision dated 10/5/64.
	3	84	
	4-5	71	Permit dated 1/22/68.
PECO-Southwark	1-4	84	Permit applications dated 11/5/70.
Sears	1	69	Aerial photo dated 4/14/65.
Strawbridge & Clothier	1	78	Permit dated 10/18/69.
Park Town Place	1	67	Permit applications dated 11/25/64.
Amstar	1-5	98	Operation discontinued.
Phila. Coke	1	91	Do.
National Sugar	1	67	Do.

Allegheny County

There are 23 stacks in Allegheny County which are greater than 65 meters in height and were in existence prior to December 31, 1970. The documentation provided for these stacks is summarized in Table 2. Eleven of the stacks are at the United States Steel Corporation (USSC) Clairton Works and range in height from 69 to 76 meters. The USSC-Duquesne Works, USSC-Homestead Works and Allegheny County Steam Heat are all shut down. If any of these shutdown stacks were to be reactivated, they would be subject to new source review procedures.

There are three (3) stacks greater than 65 meters constructed after 1970. The Pittsburgh Allegheny County thermal steam plant, located at Ft. Duguesne and Stanwick Streets, has a stack height of 365 feet (111 meters) approved June 1983. The stack is on a building 165 feet in height. Since the location is in downtown Pittsburgh, the projected width of all nearby buildings is greater than the building height so L is equal to 165 feet. The formula GEP height (165 + (1.5 × 165)) is 412 feet (126 meters). The actual stack height is less than GEP height. The Duquesne Light-Philips Station has an actual stack height of 341 feet (104 meters). A nearby building, located 490 feet away, is 144 feet in height and 200 feet in width. The formula GEP height (144 + (1.5 X 144)) is 360 feet (110 meters) or slightly above the actual stack height. The Battery B stack at USSC-Clairton Works, the exception in the USSC affidavit, has a height of 95 meters approved July 1980. The height of the surge bin building, approximately 160 feet from Battery B, is 137 feet and the projected width (L) is 130 feet. The formula GEP height (137 +(1.5x130)) is 332 feet (101 meters). The actual stack height is six (6) meters less than GEP height.

There are six (6) facilities in Allegheny County with allowable SO_2 emissions greater than 5000 tons per year. The facilities are:

(1) Duguesne Light Company, Cheswick Power Station;

(2) Duquesne Light Company, Philips Power Station;

(3) USX Corporation, Clairton Works;

(4) USX Corporation, Edgar Thomson Works;

(5) USX Corporation, Irvin Works; and

(6) USX Corporation, National Works.

For each of these facilities documentation, in the form of an affidavit, has been submitted affirming that no dispersion technique has been implemented at any time. The Engineering Section of Allegheny County Bureau of Air Pollution Control has concurred with the affidavits.

TABLE 2

ALLEGHENY COUNTY, PA

[Stack heights greater than 65m prior to 12/31/70]

Company	Stack	Height (m)	Documentation
All. Co. Sanitary Auth.	S2	92	Contract Report 11/10/58.
All. Co. Steam Heat	S31	82	Shut down.
Bellefield Boiler Plant	S2	78	Drawing dated 4/6/56.
Duquesne Light-Cheswick.	S31	229	News Article 11/24/68.
H.J. Heinz	S1	76	Drawing & Picture 1919.
H.J. Heinz	S2	76	Drawing dated 5/1/54.
LTV Steel	S5	69	Permit indicating 1953.

TABLE 2—Continued

[Stack heights greater than 65m prior to 12/31/70]

Company	Stack	Height (m)	Documentation
Shenango, Inc., Battery 1.	S1	69	Affidavit/Permit.
Shenango, Inc., Battery 4.	S2	69	Indicating 1952.
USSC-Duquesne	All but SD13 11 Stacks	<76	Affidavit attesting to pre-1970 dates 1930–1960.
USSC-Duquesne	S07	70	Shut down.
USSC-Homestead	S01	69	Do.
USSC-Homestead	S09	70	Do.

Conclusion:

The EPA is proposing to approve the determination by Philadelphia and Allegheny Counties in Pennsylvania that there are no stacks located in those respective counties for which a revised emission limit is required in order to conform with the July 8, 1985 stack, height regulation. Interested persons are invited to submit comments on this proposed approval to the EPA, Region III address cited above. This is not a rulemaking action. No emission limitation will be changed as the result of the approval as proposed.

Authority: 42 U.S.C. 7401–7642.

Date: September 22, 1986.

James M. Seif,

Regional Administrator.

Editorial Note: This document was received at the Office of the Federal Register January 19, 1988.

[FR Doc. 1273 Filed 1–25–88; 8:45 am]

BILLING CODE 6560–50–M

[FRL No. 3316–4]

Fuels and Fuel Additives; Waiver Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to section 211(f) of the Clean Air Act (Act), the Administrator of EPA is denying an application for a fuel waiver involving methanol and cosolvent alcohols submitted by AM Laboratories, Inc.

ADDRESS: Copies of documents relevant to this waiver application, including the Administrator's decision document, are available for inspection in public docket EN–87–05 at the Central Docket Section (LE–131) of the EPA, South Conference Center, Room 4, 401 M Street, SW., Washington, DC 20460, (202) 382–7548, between the hours of 8:00 a.m. and 3:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: David J. Kortum, Environmental Engineer, Field Operations and Support Division (EN–397F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 475–8841.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Clean Air Act makes it unlawful, effective March 31, 1977, for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use in light-duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. EPA has defined "substantially similar" at 46 FR 38528 (July 28, 1981).

Section 211(f)(4) of the Act provides that upon application by any fuel or fuel additive manufacturer the Administrator of EPA may waive the prohibitions of section 211(f)(1) if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emissions standards to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny a waiver within 180 days of receipt of the application (in this case by January 19, 1988), the statute provides that the waiver shall be treated as granted.

AM Laboratories, Inc. submitted a waiver application for a gasoline-alcohol fuel blend, referred to as AM 5/5, on July 23, 1987. AM 5/5 is composed of a gasoline blend containing a maximum of 4.4 weight percent fuel oxygen, a maximum of 5 volume percent methanol, a minimum of 5 volume percent cosolvents and specified amounts of certain corrosion inhibitors. *See* 52 FR 33261 (September 2, 1987).

For reasons specified in the Administrator's decision document (available as described above), EPA has decided to deny AM laboratories' waiver application. This decision is based on the determination that AM Laboratories has not demonstrated that the fuel, when used as specified above, will not cause or contribute to a failure of 1975 or subsequent model year vehicles or engines to compy with the emisssion standards with respect to which they were certified under section 206 of the Act.

EPA has determined that this action does not meet any of the criteria for classification as a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. section 601 *et seq.*, because EPA has not published, and is not required to publish, a Notice of Proposed Rulemaking under the Administrator Procedure Act, 5 U.S.C. section 553(b), or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this section on small entities.

This is a final Agency action of national applicability. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(1) of the Act, judicial review of the action is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia

Circuit within 60 days of January 26, 1988. Under section 307(b)(2) of the Act, today's action may not be challenged later in separate judicial proceeding brought by the Agency to enforce the statutory prohibitions.

Dated: January 19, 1988.

Lee M. Thomas,

Administrator.

[FR Doc. 88-1502 Filed 1-25-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3320-7]

Science Advisory Board, Environmental Health Committee, Drinking Water Subcommittee

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Drinking Water Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on February 4-5, 1988 at the One Washington Circle Hotel, Washington, DC. The meeting will start at 8:30 a.m. on February 4th and adjourn no later than 4:00 p.m. on February 5th.

The Drinking Water Subcommittee of the Environmental Health Committee will review the health criteria documents prepared by the Office of Research and Development for the Office of Drinking Water for styrene, ethylbenzene, and acrylamide.

An agenda for the meeting is available for Ms. Reneé Butler, Staff Secretary, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382-2552. The health criteria documents are available from the Health Effects Branch, Office of Drinking Water, USEPA, Washington, DC 20460, (202) 382-7571.

The meeting will be open to the public. Any member of the public wishing to attend, obtain information or otherwise participate in these meetings must contact Dr. C. Richard Cothern, Executive Secretary, Environmental Health Committee by telephone at (202) 382-2552 or by mail to: Science Advisory Board (A-101-F), 401 M Street, SW., Washington, DC 20460 no later than c.o.b. on January 25, 1988.

Terry F. Yosie,

Director, Science Advisory Board.

Date: January 21, 1988.

[FR Doc. 88-1625 Filed 1-25-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 87-578]

Applications for Consolidated Hearing; Calhoun County Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/State	File No.	MM Docket No.
A. Calhoun County Broadcasting, Inc., Oxford, AL.	BPH-860902MD	87-578
B. Daystar Broadcasting Network, Inc., Oxford, AL.	BPH-860912MA	
C. Ellis J. Parker and Mignon C. Smith d/b/a Oxford, Radio Joint Venture, An Alabama General Partnership, Oxford, AL.	BPH-860917MB	
D. Woodard Broadcasting Co., Inc., Oxford, AL.	BPH-860918MA	
E. Martis E. Phillips *et al.*, d/b/a Mountain Broadcasting, An Alabama Partnership, Oxford, AL.	BPH-860918MC	
F. Oxford Broadcasting, Ltd., Oxford, LA.	BPH-860918NA	
G. Thomas Sims Potts, Oxford, AL.	BPH-860918NC	
H. Mavis Gardner, Ronald Windsor and George Salmon d/b/a Cheaha Associates, Oxford, AL.	BPH-860918NF	
I. Oxford Broadcasting Service, Inc., Oxford, AL.	BPH-860918OM	
J. William E. Bussey, Jr., Oxford, AL.	BPH-860918OR	
K. Julie N. Frews, Oxford, AL.	BPH-860918OX	

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 a signify whether the issue in question applies to that particular applicant.

Issue heading and applicant(s)

1. Financial, I
2. Air Hazard, F,J,K
3. Comparative, all applicants
4. Ultimate, all applicants.

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).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-1467 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-574]

Applications for Consolidated Hearing; Dove, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/state	File No.	Docket No.
Dove, Inc., Maryville, TN.	BPH-860729MA	87-574
Chilhowee Communications, Ltd., Maryville, TN.	BPH-860730MA	
Elizabeth F. Nicholson, Maryville, TN.	BPH-860730MB	
Blount County Broadcasting Corp., Maryville, TN.	BPH-860730MD	
Gateway Broadcasting Corp., Maryville, TN.	BPH-860730MJ	

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 heading are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading and applicant(s)
1. Air Hazard, A,B,D
2. Comparative, A,B,C,D,E
3. Ultimate, A,B,C,D,E.

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-1468 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-575]

Applications for Consolidated Proceeding; Olney Broadcasting Co., and Wes-Tex Broadcasting, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/state	File no.	MM Docket No.
A. Olney Broadcasting Co., Olney TX.	BPH-860905MB	87-575
B. Wes-Tex Broadcasting, INc., Olney, TX.	BPH-860908MA	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above application have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading and applicant(s)

1. Air Hazard, B
2. Comparative, Both
3. Ultimate, Both.

3. It there in 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).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-1469 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-577]

Applications for Consolidated Proceeding; Pittsburg Radio, and Don H. Barden

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/state	File no.	MM Docket No.
A. Jane A. Filler d/b/a Pittsburg Radio, Pittsburg, TX.	BPH-860123MH	87-577
B. Don H. Barden, Pittsburg, TX.	BPH-860123MI	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above application have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading and applicant(s)

1. Comparative, Both
2. Ultimate, Both.

3. It there in 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).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-1470 Filed 1-25-88; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 87-576; File No. 3282-CM-P-80, and File No. 3751-CM-P-80]

Tele-Communications of Key West, Inc. and Robert A. Gordon, d/b/a The BA Co.; for Construction Permits in the Multipoint Distribution Service for a new Station on Channel 1 at Key West, FL

Memorandum Opinion and Order

Adopted: December 11, 1987.

Released: January 15, 1988.

By the Common Carrier Bureau:

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Key West, Florida. The applications are therefore mutually exclusive and require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, *it is hereby ordered*, that pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *are designated for hearing*, in a *consolidated proceeding*, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It is further ordered,* that Tele-Communications of Key West, Inc, Robert A. Bordon d/b/a The BA Company and the Cheif of the Common Carrier Bureau, are made parties to this proceeding.

5. *It is further ordered,* that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules, 47 CFR 1.221.

7. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division Common Carrier Bureau.

FR Doc. 88–1471 Filed 1–25–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–809–DR]

Major Disaster and Related Determinations; Republic of the Marshall Islands

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Republic of the Marshall Islands (FEMA–809–DR), dated January 16, 1988, and related determinations.

DATED: January 16, 1988.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice: Notice is hereby given that, in a letter dated January 16, 1988, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the Republic of the Marshall Islands from severe winds, high waves, and flooding caused by Tropical Storm Roy on January 9, 1988, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I, therefore, declare that such a major disaster exists in the Republic of the Marshall Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated areas.

Pursuant to section 408(b) of PL 93–288, you are authorized to advance to the Republic its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the Republic when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Joseph G. Del Monte of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Republic of the Marshall Islands to have been affected adversely by this declared major disaster: Kwajalein Atoll for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 88–1476 Filed 1–21–88; 8:45 am]

BILLING CODE 6718-02-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 Nos.: (1) 202–008054–027; (2) 202–009502–020.

Titles: (1) South and East Africa/U.S.A. Conference; (2) United States/South and East Africa Conference.

Parties (1) & (2):

The Bank Line, Limited
Lykes Bros. Steamship Co., Inc.
P & O Container Line
South African Marine Corp. Ltd.

Synopsis: The proposed amendments would restate the agreements and would add language to also preclude the parties from issuing bills of lading for the carriage of cargo in contravention of conference tariffs.

Agreement No.: 203–011165.

Title: SENATOR/AEL Reciprocal Space Charter and Sailing Agreement.

Parties:

Senator Linie GmbH & Co., KG
Atlantik Express Linie Thien + Heyenger Schiffahrts GmbH & Co.

Synopsis: The proposed agreement would permit the parties to agree upon rates and charges, to charter space from one another and to rationalize sailings in the trade between United States Atlantic Coast ports and ports in North Europe.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: January 21, 1988.

[FR Doc. 88–1497 Filed 1–25–88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisitions of Shares of Banks or Bank Holding Companies; Max G. Brooks et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice

or to the offices of the Board of Governors. Comments must be received not later than February 10, 1988.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Max G. Brooks*, Denver, Colorado; to acquire an additional 2.92 percent of the voting shares of C.C.B., Inc., Denver, Colorado, and thereby indirectly acquire New Central Colorado Company, Denver, Colorado; Central Bancorporation, Inc., Denver, Colorado; Central Bank of East Aurora, N.A., Aurora, Colorado; First National Bank in Aspen, Aspen, Colorado; Central Bank of Aurora, Aurora, Colorado; Central Bank of Broomfield, Broomfield, Colorado; Central Bank of Academy Boulevard, Colorado Springs, Colorado; Central Bank of Colorado Springs, Colorado Springs, Colorado; Central Bank of Garden of the Gods, N.A., Colorado Springs, Colorado; Central Bank of Chapel Hills, N.A., Colorado Springs, Colorado; First National Bank in Craig, Craig, Colorado; Central Bank of Denver, Denver, Colorado; Central Bank of North Denver, Denver, Colorado; Central Bank of Inverness, N.A., Englewood, Colorado; Central Bank of Glenwood Springs, N.A., Glenwood Springs, Colorado; Central Bank of Grand Junction, N.A., Grand Junction, Colorado; Central Bank of Greeley, West Greeley, Colorado; Central Bank of Chatfield, Littleton, Colorado; Central Bank at Centennial, N.A., Littleton, Colorado; Central Bank of Pueblo, N.A., Pueblo, Colorado; Rocky Ford National Bank, Rocky Ford, Colorado; and Central Bank of Westminster, N.A., Westminster, Colorado.

2. *Christian K. Keesee*, John E. Kirkpatrick, and Eleanor B. Kirkpatrick, all of Oklahoma City, Oklahoma; to each acquire 29.58 percent of the voting shares of American Bancorp of Edmond, Inc., Edmond, Oklahoma, and thereby indirectly acquire American Bank and Trust, Edmond, Oklahoma.

Board of Governors of the Federal Reserve System, January 20, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-1448 Filed 1-25-88; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Continental Illinois Bancorp, Inc. et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 12, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Continental Illinois Bancorp, Inc.*, Chicago, Illinois, and Continental Illinois Corporation, Chicago, Illinois; to acquire 100 percent of the voting shares of Grand Canyon State Bank, Scottsdale, Arizona.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Napa Valley Bancorp*, Napa, California; to acquire at least 50.01 percent of the voting shares of Sonoma Valley Bank, Sonoma, California, a *de novo* bank.

Board of Governors of the Federal Reserve System, January 20, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-1449 Filed 1-25-88; 8:45 am]

BILLING CODE 6210-01-M

Application To Engage de Novo in Permissible Nonbanking Activities; First Interstate of Iowa, Inc.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 3, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Interstate of Iowa, Inc.*, Des Moines, Iowa; to engage *de novo* through its subsidiary, First Interstate Trust of Iowa, N.A., Des Moines, Iowa, in acting as a trustee for testamentary and living trusts; and acting as agent, custodian, and executor and administrator with regard to trusts. As trustee, Applicant will provide services with regard to farm management, employee benefit service, financial planning, tax planning, trustee under bond indenture, registrar, transfer agent, conservator, and real estate management pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 20, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-1450 Filed 1-25-88; 8:45 am]

BILLING CODE 6210-01-M

Northern Trust Corp.; Application To Engage de Novo in Permissible Nonbanking Activities; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 87–29135) published at page 48323 of the issue for Monday, December 21, 1987.

Under the Federal Reserve Bank of Chicago, the entry for Northern Trust Company is revised to read as follows:

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northern Trust Corporation,* Chicago Illinois; to engage do novo as a futures commission merchant through its subsidiary Northern Futures Corporation, Chicago, Illinois, on the Bond Buyer Municipal Index, Standard & Poor's 500 Stock Price Index, Major Market Index, New York Stock Exchange Composite Index. These activities have been approved previously by Board Order. *See e.g. Saban, S.A., Republic New York Corporation* 73 Federal Reserve Bulletin 224 (1987).

Comments on this application must be received by February 12, 1988.

Board of Governors of the Federal Reserve System, January 20, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–1451 Filed 1–25–88; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Solicitation for Interest in Developing and Marketing Inventions

The Department of Health and Human Services hereby solicits expressions of interest from commercial organizations in developing and marketing two inventions by Drs. Stephen B. Leighton and Jay A. Berzofsky who are employees of the National Institutes of Health. The first invention is a device for delivering one cell in a suspension containing a variety of cells into the well of a microtitre tray. The second invention is a device for indexing the movement of a microtitre tray under a dispensing nozzle, suction device, optical monitor, radiation detector, etc.

Descriptions of the invention disclosures will be provided to qualified applicants who agree to receive the disclosures in confidence so that the Government's patent rights will not be compromised. Parties interested in reviewing the invention disclosures should submit written requests within sixty (60) days to: Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Room 5A03, Westwood Building, Bethesda, Maryland 20892.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this solicitation.

Authority: 45 CFR 6.4 and 7.3.

Robert E. Windom,

Assistant Secretary for Health.

Dated: January 20, 1988.

[FR Doc. 88–1516 Filed 1–25–88; 8:45 am]

BILLING CODE 4110–12–M

Food and Drug Administration

[Docket No. 87C–0379]

Wesley-Jessen; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Wesley-Jessen has filed a petition proposing that the color additive regulations be amended to provide for the safe use of carbazole violet (CAS Reg. No. 6358–30–1, Colour Index No. 51319) to color contact lenses.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402–403 (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 7C0210) has been filed by Wesley-Jessen, 400 West Superior St., Chicago, IL 60610, proposing that Part 73 of the color additive regulations be amended to provide for the safe use of carbazole violet (CAS Reg. No. 6358–30–1, Colour Index No. 51319) to color contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 14, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–1456 Filed 1–25–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87F–0389]

Pfizer Central Research, Pfizer, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Pfizer Central Research, Pfizer, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the use of polydextrose in peanut butter spread.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Center for Food Safety and Applied Nutrition (HFF–344), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3998) has been filed by Pfizer Central Research, Pfizer, Inc., 235 East 42d St., New York, NY 10017, proposing that § 172.841 *Polydextrose* (21 CFR 172.841) be amended to provide for the safe use of polydextrose in peanut butter spread.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 15, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–1457 Filed 1–25–88; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee Meetings; Filing of Annual Reports

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal

Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings.

ADDRESS: Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1751.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I, as amended)), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period July 1, 1986, through September 30, 1987:

Center for Biologics Evaluation and Research

Allergenic Products Advisory Committee, Blood Products Advisory Committee, Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research

Anti-Infective Drugs Advisory Committee.

Center for Devices and Radiological Health

Clinical Chemistry and Clinical Toxicology Devices Panel, Gastroenterology-Urology Devices Panel, General and Plastic Surgery Devices Panel, General Hospital and Personal Use Devices Panel, Immunology Devices Panel, Ophthalmic Devices Panel.

Center for Veterinary Medicine

Veterinary Medicine Advisory Committee.

Annual reports are available for public inspection at: (1) The Library of Congress, Newspaper and Current Periodical Reading Room, Rm. 1026, Thomas Jefferson Bldg., Second and Independence Ave. SE., Washington, DC, (2) the Department of Health and Human Services Library, Rm. 1436, 330 Independence Ave. SW., Washington, DC, on weekdays between 9 a.m. and 4:30 p.m., and (3) the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 1988.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–1514 Filed 1–25–88; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Institute of Dental Research, Dental Research Programs Advisory Committee; Meeting Change

Notice is hereby given of a change in the meeting of the Dental Research Programs Advisory Committee originally scheduled for January 27–28, 1988, 8:30 a.m., in Building 30, Room 117, National Institutes of Health, which was published in the **Federal Register** on December 3, 1987, 52 FR 460004.

This Dental Research Programs Advisory Committee was to have convened at 8:30 a.m. on January 27–28, 1988. The meeting has been rescheduled for February 29-March 1, 1988, in Wilson Hall, Shannon Building, National Institutes of Health, Bethesda, Maryland, from 8:30 a.m. to recess on February 29 and from 8:30 a.m. to adjournment on March 1, 1988.

The entire meeting will be open to the public to discuss research progress and ongoing plans and programs. Attendance by the public will be limited to space available.

Dr. Marie Nylen, Director for Extramural Programs, NIDR, NIH, Westwood Building, Room 503, Bethesda, MD 20892 (telephone 301/496–7723) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121-Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122-Disorders of Structure, Function, and Behavior, Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13–845-Dental Research Institutes, National Institutes of Health.)

Dated: January 21, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–1569 Filed 1–25–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending March 31, 1988

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending March 31, 1988, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 9¾ percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)) in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (6.17 percent), and rounding the result (9.67 percent) upward to the nearest ⅛ percent (9¾ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending March 31, 1988, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable intertest at the annual rate was as follows: 9¼ percent for the quarter ending June 30, 1987; 9½ percent for the quarter ending September 30, 1987; and 9⅞ percent for the quarter ending December 31, 1987.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 9¾ percent. Using the regulatory formula (42 CFR 60.13(a)(3)) in effect for that time period, the Secretary computes the maximum interest rate at the

beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (6.17 percent); adding 3.50 percent (9.67 percent); and rounding that figure to the next higher one-eighth of 1 percent (9¾ percent).

3. For fixed rate loans executed during the period of January 1, 1988 through March 31, 1988, and for variable rate loans executed on or after October 22, 1985, the interest rate is 9¼ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a) (2) and (3)) with the statutory change of 3 percent (42 CFR 60.13(a)(1)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (6.17 percent); adding 3.0 percent (9.17 percent) and rounding that figure to the next higher one-eighth of 1 percent (9¼ percent)

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: January 20, 1988.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 88–1458 Filed 1–25–88; 8:45 am]

BILLING CODE 4160–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pueblos in New Mexico; Transfer of Indian Owned Land

January 11, 1988.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Correction of notice.

SUMMARY: In 52 FR 42351 for Wednesday, November 4, 1987, the following Pueblos are to be included: Appearing on page 42351, in the second paragraph, on the ninth line before the Pueblo of San Ildefonso, insert "Pueblo of Pojoaque, Pueblo of Sandia, Pueblo of San Felipe".

W.P. Ragsdale,

Acting Assistant Secretary; Indian Affairs.

[FR Doc. 88–1443 Filed 1–25–88; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AZ–050–08–4212–13]

Arizona; Resource Management Planning; Yuma District Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to file Category I amendment to Yuma District Resource Management Plan, Yuma District, Arizona.

FOR FURTHER INFORMATION CONTACT: Michael R. Ford, Area Manager, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86402, 602–855–8017 (for Needles lands), and Sue Richardson, Area Manager, Yuma Resource Area, 3150 Winsor Avenue, Yuma Arizona 85365, 602–726–6300 (for Yuma lands).

SUPPLEMENTARY INFORMATION: In accordance with 43 CFR 1610.2(c), and 1610.3–1(d), notice is hereby given of intent to prepare a planning amendment document. This notice also constitutes the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1501.7).

1. *Description of the proposed planning policy:* The proposed action is to amend the Yuma District Resource Management Plan (RMP) completed in May 1986. The Category I planning amendment will be based upon existing statutory requirements and policies, and will carry out the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). The RMP Amendment and accompanying Environmental Assessment (EA) will provide the basis for changing the RMP Land Ownership Adjustment Section (issue 4) to allow for the disposal through exchange of approximately 425 acres of public land not previously identified for disposal. The Amendment and EA are scheduled for completion by February 1, 1988.

2. *Identification of the geographic area involved:* The lands to be available for disposal through exchange are in the following locations: Within the city limits of Needles, California, on the south side of the town described as T. 8 N., R. 23 E., SBM, sec. 4, lot 4, SW¼NW¼, N½SW¼, SE¼SW¼, N½SW¼SW¼, SE¼SW¼SW¼, N½SW¼SW¼SW¼, SE¼SW¼SW¼SW¼, W¼SW¼SE¼; approximately 10 miles south of Yuma, Arizona, described as T. 10 S., R. 23 W., G&SRM, sec. 18, lot 10, SE¼SW¼NW¼, E½NW¼SW¼, SW¼NE¼SW¼; approximately 15 miles east of Yuma along Highway 95 described as T. 8 S., R. 21 W., G&SRM, sec. 16, lot 7 and 9, E½SE¼SW¼; approximately 6 miles east of Ehrenberg, Arizona, just south of Interstate 10, described as T. 3 N., R. 21 W., G&SRM, sec. 3, lot 9.

3. *General types of issues anticipated:* The proposed Amendment addresses the changes to the Land Tenure Adjustment Section only.

4. *Disciplines to be represented and used to prepare the amendment:* Topography and soils, vegetation, wildlife, minerals, land use, visual resources, floodplains, threatened and endangered species, cultural resources, and socio-economic factors.

5. The kind and extent of public participation will be carried out through several comment periods to be announced in the **Federal Register** and local newspaper. There is a specific comment period for the Governor to inform and seek comment from State and local agencies.

6. *Times, dates and locations scheduled for any public meetings, hearings, conferences, or gatherings as known:* At this time, no scheduling for any public meetings has been planned. All public input will be handled through written comments.

7. *The location and availability of documents relevant to the planning process:* Documents will be available for public review at the Havasu Resource Area Office, 3189 Sweetwater Avenue, Lake Havasu City, Arizona, and Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85364.

Date: January 15, 1988.

J. Darwin Snell,

District Manager.

[FR Doc. 88–1444 Filed 1–25–88; 8:45 am]

BILLING CODE 4310–32–M

Minerals Management Service

Alaska Outer Continental Shelf; Date, Time, and Location of Public Scoping Meetings Regarding the Environmental Impact Statement for Proposed Oil and Gas Lease Sale 101, St. George Basin

The October 8, 1987 **Federal Register** contained a Notice of Intent to prepare an Environmental Impact Statement (EIS) for proposed Oil and Gas Lease Sale 101, St. George Basin. The Notice of Intent announced the scoping process that will be followed for the preparation of the EIS. The scoping process will involve Federal, State, and local governments and other interested parties aiding the Minerals Management Service in determining the significant

issues, alternatives, and mitigating measures to be analyzed in the EIS. This will be done through written scoping comments and public scoping meetings. Scoping meetings will be held as follows:

February 1, 1988

City Hall Recreation Center, St. Paul, Alaska (7:00 p.m.)

February 2, 1988

Community Hall, St. George, Alaska (7:00 p.m.)

February 3, 1988

City Council Chambers, Unalaska, Alaska (7:00 p.m.)

February 9, 1988

Kuskokwim Community College, Room 146, Bethel, Alaska (6:30 p.m.)

Written scoping comments will be accepted through February 15, 1988, and should be submitted to: Regional Director, Alaska OCS Region, Minerals Management Service, Attention: Paul Dubsky, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508–4302.

Additional information can be obtained from Paul Dubsky at the above address, telephone (907) 261–4655.

Rodney A. Smith,

Acting Regional Director, Alaska OCS Region, Minerals Management Service.

[FR Doc. 88–1554 Filed 1–25–88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Upper Delaware Scenic and Recreational River; Citizens Advisory Council Meeting

AGENCY: National Park Service, Upper Delaware Citizens Advisory Council, 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: January 22, 1988, 7:00 p.m.[1]

Inclement weather reschedule date: February 12, 1988.

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.

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

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 the statistical report for the NPS-funded law enforcement and trash removal program for the 1987 season.

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, Pennsylvania.

Maureen Finnerty,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 88–1488 Filed 1–25–88; 8:45 am]

BILLING CODE 4310-70-M

Martin Luther King, Jr., National Historic Site; Advisory Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. at the following location and date.

DATE: February 10, 1988.

ADDRESS: The Martin Luther King, Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue NE., Atlanta, Georgia 30312.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue NE., Atlanta, Georiga 30312, Telephone (404) 331–4979.

SUPPLEMENTARY INFORMATION: The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and administration of the Martin Luther King, Jr., National Historic Site. The members of the Advisory Commission are as follows:

Ms. Portia Scott, Chairperson
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Art Clement
Mr. Dan Nall
Mrs. Valena Henderson
Mr. William Allison
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The matters to be discussed at this meeting will include: (1) An update of park development and interpretive activities at the park.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Date: January 13, 1988.

Robert L. Deskins,

Acting Regional Director, Southeast Region.

[FR Doc. 88–1513 Filed 1–25–88; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations, Alabama et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 16, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written

comments should be submitted by February 10, 1988.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Baldwin County

Battles Wharf, *Battles Wharf Historic District*, US 98, Eastern Shore Blvd. roughly between Woolworth Ave. and Buerger La.

Mobile County

Kushla vicinity, *Magee, Jacob, House*, CR 45 N of Kushla McLeond Rd.
Mobile, *Azalea Court Apartments*, 1820 Old Government St.
Mon Louis Island vicinity, *Austin, Hiram B., House*, AL 163 at 12 mi. maker

CONNECTICUT

Middlesex County

Chester, *Daniels, Charles, House*, 43 Liberty St.
Middlefield, *Ward, William, Jr., House*, 137 Powder Hill Rd.

KENTUCKY

Campbell County

Bellevue, *Fairfied Avenue Historic District (Bellevue MRA)*, Fairfield Ave. between Lafayette Ave. and O'Fallon
Bellevue, *Foote-Fister Mansion (Bellevue MRA)*, 801 Lincoln Rd.
Bellevue, *Taylor's Daughters Historic District (Bellevue MRA)*, Roughly bounded by O'Fallon Ave., Locust St., Retreat St., Clark St., Chen Ave., and Fairfield Ave.

LOUISIANA

DeSoto Parish

Grand Cane, *Bank of Grand Cane*, US 171
Mansfield vicinity, *Guy House*, Off LA 513, 5 mi. S of Mansfield

East Baton Rouge Parish

Zachary vicinity, *Fairhaven Plantation House*, 18630 Samuel Rd.

Natchitoches Parish

Robeline, *Robeline Methodist Church*, Texas St., LA 6

Vermilion Parish

Abbeville, *St. Mary Magdalen Church, Rectory, and Cemetery*, Pere Megret and Main St.

Webster Parish

Minden, *Bank of Minden*, 605 Main St.

MINNESOTA

St. Louis County

Archaeological Site 21SL82

MISSISSIPPI

Monroe County

Aberdeen, *Aberdeen City Hall (Aberdeen MRA), 125 W. Commerce St.*
Aberdeen, *Adams-French House (Aberdeen MRA)*, N. Meridian and Marshall Sts.
Aberdeen, *Building at 133 East Commerce Street (Aberdeen MRA; Commercial Buildings of Aberdeen TR)*, 133 E. Commerce St.
Aberdeen, *Buildings at 110–122 East Commerce Street (Aberdeen MRA; Commercial Buildings of Aberdeen TR)*, 110–122 E. Commerce St.
Aberdeen, *Buildings at the Northwest Corner of Commerce and Meridian Streets (Aberdeen MRA; Commercial Buildings of Aberdeen TR)*, 100–104 W. Commerce St. and 107 N. Meridian St.
Aberdeen, *Day, C. C., House (Aberdeen MRA)*, 517 S. Meridian St.
Aberdeen, *Dunklin, William A., House (Aberdeen MRA)*, 301 High St.
Aberdeen, *Harmon Subdivision Historic District (Aberdeen MRA)*, 933–939 and 943 W. Commerce St.
Aberdeen, *Holliday John, House (Aberdeen MRA)*, 609 S. Meridian St.
Aberdeen, *Johnson-Butler House (Aberdeen MRA)*, 210 High St.
Aberdeen, *North Aberdeen Historic District (Aberdeen MRA)*, Roughly bounded by Meridian, Marshall, Long, and Commerce Sts.
Aberdeen, *Old Homestead (Aberdeen MRA)*, 503 W. Commerce
Aberdeen, *South Central Aberdeen Historic District (Aberdeen MRA)*, Roughly bounded by Locust, Washington, Franklin, and High Sts.
Aberdeen, *West Commerce Street Historic District (Aberdeen MRA)*, 721–919 and 730–900 W. Commerce St.

NEW YORK

Delaware County

Roxbury, *Main Street Historic Distric*, Main St.

Franklin County

Saranac Lake, *Berkeley Square Historic District*, 30–84 Main St., 2–29 Broadway

Nassau County

Glen Cove, *Sea Cliff Railroad Station (Sea Cliff Summer Resort TR)*, Sea Cliff Ave.
Sea Cliff, *Central Hall (Sea Cliff Summer Resort TR)*, 93 Central Ave.
Sea Cliff, *Crowell House (Sea Cliff Summer Resort TR)*, 375 Littleworth La.

Yates County

Dresden, *Ingersoll, Robert, Birthplace*, Main St.

NORTH CAROLINA

Forsyth County

Kernersville, *First Baptist Church (Kernersville MPS)*, 126 N. Main St.
Kernersville, *Harmon—Reid Mill (Kernersville MPS)*, 208 Bodenhamer St.
Kernersville, *Kernersville Depot (Kernersville MPS)*, 121 Railroad St.
Kernersville, *McKaughan, Isaac Harrison, House (Kernersville MPS)*, 506 Salisbury St.
Kernersville, *North Cherry Street Historic District (Kernersville MPS)*, 100 blk. N. Cherry St.
Kernersville, *Roberts—Justice House (Kernersville MPS)*, 133 N. Main St.
Kernersville, *South Main Street Historic District (Kernersville MPS)*, 100—600 blks. of S. Main St.
Kernersville, *Stuart Motor Company (Kernersville MPS)*, 109—111 E. Mountain St.

OHIO

Delaware County

Ostrander vicinity, *Felkener—Anderson House*, 9716 Fontanelle Rd.

Franklin County

Canal Winchester, *West Mound Street Historic District*, 10—54 W. Mound St. and 28 Elm St.

Greene County

Cedarville, *Harper Mausoleum and Harper, George W., Entrance*, North Cemetary, OH 72

Hamilton County

Cincinnati, *123—137 East Fourth Street Historic District*, 123, 127 and 135—137 E. Fourth St.

Muskingum County

Zanesville, *US Post Office and Federal Building-Zanesville*, 65 S. Fifth St.

OREGON

Deschutes County

Bend, *New Taggart Hotel*, 215 NW Greenwood Ave.

Hood River County

Hood River, *Roe—Parker House*, 416 State St.

Multnomah County

Portland, *Compbell Hotel*, 530 NW Twenty-third Ave.
Portland, *Druhot, Alice, House*, 1903 SW Cable St.
Portland, *Envoy Apartment Building*, 2336 SW Osage
Portland, *Jones, Dr. Noble Wiley, House*, 2187 SW Market St. Dr.
Portland, *Landenberger, C. A., House*, 1805 NW Glisan St.
Portland, *Otis Elevator Company Building*, 230 NW Tenth Ave.

Polk County

Independence, *Cooper, James S., and Jennie M., House*, 487 S. Third St.

Umatilla County

Athena, *Watts, M. L., House*, Fourth at Jefferson St.

Yamhill County

Carlton, *Carlton State and Savings Bank*, 109 W. Main St.
Dayton vicinity, *Bertram, Henry, Sr., House*, 6160 SE Webfoot Rd.

WASHINGTON

Snohomish County

Darrington, *Green Mountain Lookout (USDA Forest Service Fire Lookouts on Mt. Baker—Snoqualmie National Forest TR)*, Darrington Ranger District

WISCONSIN

Columbia County

Fall River vicinity, *Nashold 20-sided Barn*, Trunk Z, 0.4 mi. E of WI 146

Dane County

Madison, *Wakeley—Giles Commercial Building*, 117—119 E. Mifflin St.

Milwaukee County

Milwaukee, *Burnham, J. L., Block*, 907—911 W. National Ave.
Milwaukee, *New Coeln House*, 5905 S. Howell Ave.
Milwaukee, *Pythian Castle Lodge*, 1925 W. National Ave.
Milwaukee, *South Branch Library*, 931 W. Madison St.

Correction: All the properties listed under Sea Cliff Summer Resort TR should be listed under Nassau County instead of Livingston County. These properties were listed on the Federal Register list dated January 20, 1988.

[FR Doc. 88–1487 Filed 1–25–88; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Investigation and Suspension Docket No. M–29788]

Charge for Shipments Moving on Order, Notify Bills of Lading: National Motor Freight Traffic Association

AGENCY: Interstate Commerce Commission.

ACTION: Discontinuance of proceedings; modification and clarification of decision.

SUMMARY: The Commission modifies and clarifies certain findings in *Charge—Shipments Moving on Order-Notify Bill of Lading*, 367 I.C.C. 330 (1983) [*Order-Notify II*]. Based upon comments filed in response to *Order-Notify II*, we affirm the general holding in that decision that publication in freight classifications of a proposed order-notify rule and accessorial charge, as well as other rules and charges unrelated to classification, exceeds the appropriate scope of section 5(a) agreements of motor freight classification publishers, and specifically of the National Motor Freight Traffic Association (NMFTA). The prior decision is modified in certain respects.

DATE: This decision will be effective on January 26, 1988.

FOR FURTHER INFORMATION CONTACT:

Suzanne Higgins O'Malley, (202) 275–7181

or

Mark Shaffer, (202) 275–7691

[TDD assistance for the hearing impaired (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the decision write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan Area), (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.)

Energy and Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Andre dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 88–1461 Filed 1–25–88; 8:45 am]
BILLING CODE 7036–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 13–87]

Privacy Act of 1974; Removal of a System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Equal Employment Opportunity Staff, Justice Management Division, Department of Justice, is eliminating a system of records entitled "Volunteer Representatives Roster, JUSTICE/JMD–015." The Staff is eliminating the system because the Volunteer Representatives Program is no longer in existence. The index has been destroyed in accordance with General Records Schedule 23, item 2.c., as approved by the Archivist of the United States. Accordingly, the system, as published in the **Federal Register** on November 17, 1980 (45 FR 75931), is removed from the Department's compilation of Privacy Act systems.

Date: December 21 1987.

Harry H. Flickinger,

Assistant Attorney General for Administration.

[FR Doc. 88–1549 Filed 1–25–88; 8:45 am]
BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Water Act; Arizona et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 7, 1988, proposed Consent Decree in *United States v. State of Arizona, et la.*, Civil No. 86–1059 PHX RGS was lodged with the United States District Court for the District of Arizona. The proposed Consent Decree concerns the prevention of the discharge of pollutants by the State of Arizona Department of Corrections and the State of Arizona without a National Pollutant Discharge Elimination System permit and in violation of the Clean Water Act. The proposed Consent Decree requires the State of Arizona Department of Corrections and the State of Arizona to achieve compliance with the Act and to jointly pay a civil penalty of $75,000. The other defendant in the case, the Town of Florence has already entered into a consent decree to resolve the matter as to them.

The Department of Justice will receive for a period of thirty (30) days the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to State of Arizona Department of Corrections, D.J. Ref. 90–5–1–1–2649.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Arizona, 230 North First Avenue, Phoenix, Arizona 85025, and at the Region 9 Office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case.

January 5, 1988.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–1548 Filed 1–25–88; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 87–51]

Harvey Presser, M.D.; Denial of Application

On March 23, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Harvey Presser, M.D.,

10014 Commerce Avenue, Tujunga, California 91042 (Respondent). The Order to Show Cause sought to deny Respondent's application for a DEA Certificate of Registration executed on June 6, 1986, because Respondent's registration would be inconsistent with the public interest as evidenced by his conviction on September 17, 1982, in the Superior Court of California in and for the County of Los Angeles of 22 counts of prescribing controlled substances for persons not under treatment, felonies relating to controlled substances.

Respondent requested a hearing by letter dated May 28, 1987. The matter was docketed before Administrative Law Judge Francis L. Young. Following prehearing filings, a hearing was held in San Francisco, California on July 8, 1987. Judge Young issued his opinion and recommended decision on October 29, 1987.

The Administrative Law Judge found that in 1980 Respondent was the subject of an investigation initiated by the California Board of Medical Quality Assurance. As part of that investigation, an undercover operative was sent to Respondent's office requesting controlled substances. On July 31, 1980, the undercover operative went to Respondent's office and told him she wished to establish herself with a doctor so she could get drugs. After spending 50 minutes with the physician, the operative left with a prescription for 100 tablets of Dexedrine. On August 7 and 14, 1980, the operative returned to Respondent's office and on each occasion received a prescription for 100 dexedrine. On September 11, 1980, the undercover operative again returned to Respondent's office; this time receiving a prescription for 100 Dexedrine tablets and a prescription for 100 Biphetamine tablets. Both these substances are Schedule II stimulant controlled substances. The operative returned again on September 25, 1980, receiving three prescriptions from Respondent: a prescription for herself for 100 Dexedrine tablets, a prescription for 100 Biphetamine for a fictitious friend "Leslie Sanders", and a third prescription for 60 Seconal capsules for a fictitious boyfriend "Eric Jones." Neither of the fictitious individuals were present in Respondent's office on September 25, 1980, nor had Respondent ever met these individuals.

On October 23, 1980, the undercover operative returned to Respondent's office accompanied by an investigator from the California Board of Medical Quality Assurnace who posed as Eric Jones. At the conclusion of the visit, the operative and the investigator left Respondent's office with six prescriptions for controlled substances. Two prescription, each for 100 Dexedrine, were issued by Respondent to the operative. Respondent issued two prescriptions, each for 100 Biphetamine for the fictitious Leslie Sanders. Respondent issued two prescriptions to Eric Jones, one for 100 Dexedrine and one for 60 Seconal. The undercover operative and the investigator returned to Respondent's office once again on November 6, 1980. On this occasion the operative received a prescription for 100 Dexedrine and one for 100 Biphetamine, while the investigator received a prescription for 100 Dexedrine and one for 60 Seconal. On no occasion were the previously described prescriptions issued for a legitimate medical purpose.

On February 11, 1982, Respondent was convicted, after a jury trial, in a California State court of 22 counts of prescribing controlled substances to persons not under treatment. These were felonies relating to controlled substances. As part of his sentence, Respondent was prohibited from practicing medicine for two years. The California Board of Medical Quality Assurance placed Respondent's license to practice medicine on probation for 10 years in January 1983, and suspended his license for one year. One of the conditions of Respondent's probation was that he surrender his DEA Certificate of Registration and not reapply until receiving written permission from the Board. The Board terminated Respondent's probation on May 22, 1986. Respondent is currently employed by the Los Angeles County Department of Mental Health, which is unaware that he is not currently registered with DEA.

The Administrative Law Judge concluded that Respondent had been convicted of a felony relating to controlled substances, and that he had unlawfully prescribed substantial quantities of Schedule II controlled substances over an extended period of time for no legitimate medical purposes. Respondent prescribed controlled substances for an individual that he did not know, and whom he had never seen as a patient. The Respondent provided no explanation for his prescribing practices other than that he was depressed and easily manipulated by his patients. Letters which Respondent submitted from a psychiatrist and physician were somewhat vague and conditional concerning Respondent's rehabilitation. Respondent has provided no further explanation for his prescribing practices, and no assurance that his behavior may not be repeated. The Administrative Law Judge recommended that the Administrator deny Respondent's application for a DEA Certificate of Registration.

The Administrator adopts the opinion and recommended decision of the Administrative Law Judge in its entirety. The Administrator concludes that there is a lawful basis for the denial of Respondent's application for a DEA Certificate of Registration, and that such registration would be inconsistent with the public interest. Respondent's past conduct with respect to controlled substances and the lack of evidence demonstating that such conduct was unlikely to recur requires that Respondent remain without a DEA registration, even in Schedules IV and V.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration submitted by Harvey Presser, M.D., dated June 6, 1986, be, and it hereby is, denied. The Administrator further orders that any other outstanding applications for registration submitted by Respondent are also denied. This order is effective January 26, 1988.

John C. Lawn,

Administrator.

Dated: January 20, 1988.

[FR Doc. 88-1505 Filed 1-25-88 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will

Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Department Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6800).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

Biennially
State or local governments
1,792 respondents; 19,110 burden hours; no forms

The Management Review System is a biennial joint Federal and State review of the operation and administration of the JTPA program to enhance the effectiveness of the operation of a State or SDA in achieving program goals, developing quality programs through effective planning and management, and efficiently utilizing available resources.

have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental

Revision

Bureau of Labor Statistics

Supplementary Data System
1220–0083
Annual
State or local governments
21 responses, 113,560 hours, no forms

As a supplement to the Annual Survey of Occupational Injuries and Illnesses, the Supplementary Data System (SDS) develops information on characteristics of work-related injuries and illnesses. The SDS fills major needs for information which cannot be supplied by the annual survey needed by the Occupational Safety and Health Administration in program direction, compliance, and standards setting.

Revision

Pension and Welfare Benefits Administration

Class Exemption 86–128
On Occasion
Businesses or other for profit; Small businesses or organizations
327,000 responses, 64,719 hours

This class exemption exempts from the prohibited transaction restrictions of ERISA the effecting or executing of securities transactions on behalf of an employee benefit plan by a person who is a fiduciary with respect to the plan and who is acting in such transactions as agent for the plan.

Extension

Occupational Safety and Health Administration

Ionizing Radiation, OSHA 253
1218–0103
Recordkeeping; On occasion
Businesses or other for profit; Federal agencies or employees; Small businesses or organizations
210,000 respondents; 133,756 burden hours; 0 forms

This information is to be collected by employers to protect the health of employees exposed to ionizing radiation in the workplace.

Signed at Washington, DC, this 21st day of January, 1988.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 88–1536 Filed 1–25–88; 8:45 am]

BILLING CODE 4510–24–M

Office of the Assistant Secretary for Veterans' Employment and Training

Procedures for Grant Application: Job Training Partnership Act, Title IV, Part C, Program Year 1988

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training, Department of Labor.

ACTION: Notice.

SUMMARY: This notice sets forth the procedures for the Solicitation for Grant Application (SGA) for the operation of employment and training programs in accordance with Title IV, Part C of the Job Training Partnership Act (JTPA). The regulations contained at 20 CFR Part 635 provide guidance for the development and administration of programs authorized under this part.

FOR FURTHER INFORMATION CONTACT: (Mr. Ronald Bachman) Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Ave. NW., Rm. S1316, Washington, DC 20210, Telephone (202) 523–9110, or the appropriate Director for Veterans' Employment and Training Service.

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary for Veterans' Employment and Training, Department of Labor announces the availability, subject to congressional appropriation, of approximately $8,062,000 for Program Year (PY) 1988. Award of these funds will implement programs authorized under Title IV, Part C of JTPA.

For PY 1988 the SGA will also contain provisions which will authorize States to submit new program proposals or extend existing programs for one year provided those programs have been successful during their current operation period.

This part provides for programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam-era, and veterans who are recently separated from military service.

On or about February 19, 1988, the Assistant Secretary for Veterans' Employment and Training will mail to all eligible applicants a Solicitation for Grant Application package.

No Solicitation for Grant Application packages will be issued prior to February 19, 1988.

Eligible applicants are limited to State Governors utilizing the JTPA administrative entity in each State.

The Solicitation for Grant Application will contain proposed funding levels for each State ranging from $55,000 to

approximately $823,000. Award of funds will be made utilizing the criteria for award specified in the Solicitation. No grant will be awarded prior to July 1, 1988.

Applications for funds must be received by the appropriate Director for Veterans' Employment and Training (DVETS) not later than 4:30 p.m., on April 15, 1988.

Consultation and technical assistance relative to the development of an application under the SGA is available upon request from the appropriate Director for Veterans' Employment and Training for the particular State involved.

Signed at Washington, DC, this 20th day of January, 1988.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 88-1540 Filed 1-25-88; 8:45 am]

BILLING CODE 4510-79-M

Employment and Training Administration

[TA-W-20,216]

The Producto Machine Co., Bridgeport, CT; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at The Producto Machine Company, Bridgeport, Connecticut. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-20,216; The Producto Machine Company, Bridgeport, Connecticut (January 15, 1987)

Signed at Washington, DC, this 15th day of January 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-1537 Filed 1-25-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-280-C]

Drummond Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mary Lee No. 1 Mine (I.D. No. 01-00515), its Mary Lee No. 2 Mine (I.D. No. 01-00821), both located in Walker County, Alabama, and its Chetopa Mine (I.D. No. 01-00323) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mines range from 48 to 54 inches in height.

3. Petitioner states that the use of cabs or canopies on the mines' electric face equipment would result in a diminution of safety because the cabs or canopies would limit the equipment operator's visibility, which would result in more collisions between equipment, brattice cloths, timbers, etc. There would also be more frequent cases of damaged trailing cables and water hoses as a result on impaired visibility. The cabs or canopies would limit the available passenger space causing the operators to leave parts of their bodies outside of the protection of the cabs or canopies, thereby often causing injuries to themselves. The cabs or canopies could also damage roof support due to rough and uneven roadways.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 25, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: January 14, 1988.

[FR Doc. 88-1538 Filed 1-25-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-223-C]

Loose Jaw Coal No. 4, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Loose Jaw Coal No. 4, Inc., P.O. Drawer 1160, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 3 (I.D. No. 44-06292) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to two unintentional roof falls certain areas of the mine cannot be safely traveled. The volume of air over the fall is 8,200 c.f.m. Both sides of the fall have been supported with timbers. To remove these timbers for the purpose of cleaning up the falls would expose miners to hazardous conditions.

3. As an alternate method, petitioner proposes to establish check points on each side of the fall to measure the rate of air flow over the fall.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 25, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: January 14, 1988.

[FR Doc. 88-1539 Filed 1-25-88; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Voluntary Protection Programs To Supplement Enforcement and To Provide Safe and Healthful Working Conditions; Name Change

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of change of the name of the Try Voluntary Protection Program to Merit.

SUMMARY: OSHA announces that the Try Program designation has been changed to the Merit Program. Program

requirements and OSHA responsibilities remain unchanged.

EFFECTIVE DATE: January 19, 1988.

FOR FURTHER INFORMATION CONTACT: James Foster, Room N3637, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, DC 20210 (202) 523–8148.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Try Program was one of the original Voluntary Protection Programs (VPP) initiated by OSHA on July 2, 1982. At that time, the program served two separate and distinct purposes; one as an avenue to work with OSHA while improving the site safety and health program to qualify for Star participation and the other to provide an opportunity to examine other effective safety and health programs not meeting Star specifications. On October 29, 1985, major revisions were announced in the VPP as a result of three years' experience operating the programs. One of those changes separated the two previous functions of Try into separate programs. The testing option became the Demonstration Program. Try remained as a stepping-stone to Star.

B. Statutory Framework

The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 (the "Act" and the "OSH Act"), was enacted "to ensure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."

Section 2(b) specifies the measures by which the Congress would have OSHA carry out these purposes. They include the following provisions which establish the legislative mandate for the Voluntary Protection Programs.

> * * * (1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of emplyment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safer and healthful working conditions;
>
> * * * (4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;
>
> * * * (5) by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;
>
> * * * (13) by encouraging joint labor-management efforts to reduce injuries and disease arisir g out of employment.

II. Rationale for Change

OSHA staff responsible for promoting the VPP have, for some time, noted the reluctance of some companies to consider participation in the Try Program because the name, to them, did not adequately signify the considerable achievements that are prerequisite to participation in the program. The name can appear to imply that a company is only beginning its efforts toward outstanding safety and health protection. It can be read to suggest that the company is "trying" without confidence of success; it does not, therefore, reflect the fact that approval for the program indicates OSHA's judgment that the company has the commitment and resources necessary for success. A variety of VPP participants have expressed this same concern. One corporation implemented an internal self-improvement program to quality all their sites for Star rather than participate in the Try Program in the interim.

During the life of the Try Program, 25 sites have participated in the program. As of January 1, 1988, six sites were actively participating in Try. Of the 25 sites approved for Try, six sites have successfully used the Try Program to qualify for Star participation. Four construction sites have been in Try. Three of these have completed construction, and participation of one was terminated. Eleven other sites were approved for Try but later withdrew from participation; six of those closed as a result of business reverses.

Approval for the Try Program is not intended to be renewable since its objective is to improve a company's current program so that it meets the remaining requirements to qualify for Star. Participation ends within a finite period of time if Star qualification is not achieved. Because it allows for the completion of unifinished steps, however, it has the potential of being a much larger program than it is. The population of sites that could qualify immediately for Try is considerably larger than the population that could qualify immediately for Star.

The VPP are not designed to meet the needs of every worksite; but for those companies with a strong management commitment to safety and health, a good working relationship with their employees, a good basic safety and health program, and willingness to work with OSHA while strengthening their program, an interim-type program can be very effective. It is in a program of this nature that OSHA may effect the greatest positive change in worker protection.

While there is a myriad of reasons why companies do not choose to participate in the VPP, OSHA does not want one of the limitations to be a negative perception of the program name. After considering a variety of suggested alternatives, OSHA has chosen the new name "Merit" as the one that most clearly expresses OSHA's philosophy toward this program and most nearly describes a program which recognizes significant achievement while providing a framework for the completion of the remaining steps necessary for participation in Star. The "Try" designation seems to emphasize only effort while the connotation of "Merit" includes a sense of accomplishment. OSHA considers this difference important because those work sites qualifying for the stepping-stone program must have a good level of safety and health management before approval.

Program requirements and OSHA responsibilities remain unchanged.

Signed at Washington, DC, this 19th day of January, 1988.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 88–1393 Filed 1–25–88; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 88–8; Exemption Application No. L–6926 et al.]

Grant of Individual Exemptions; Chattanooga Electrical Joint Apprenticeship & Training Trust Fund et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public

inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Chattanooga Electrical Joint Apprenticeship and Training Trust Fund (the Plan) Located in Chattanooga, TN

[Prohibited Transaction Exemption 88–8; Exemption Application No. L–6926]

Exemption

The restrictions of section 406(a) of the Act shall not apply to the construction loan and to the permanent financing in the amount of $370,000 made to the Plan by IBEW Local Union No. 175, a party in interest with respect to the Plan, provided that the terms of the transactions were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time the transactions were consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 23, 1987 at 52 FR 39724.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Garrison Company Employees Profit Sharing Plan (the Plan) Located in Farmington Hills, Michigan

[Prohibited Transaction Exemption 88–9; Exemption Application No. D–7066]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan of improved real property (the Property) to KRG Investments, a party in interest with respect to the Plan, and to the transfer of an outstanding lease and mortgage on the Property to KRG Investments, provided KRG Investments pays no less than fair market value for the Property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 6, 1987 at 52 FR 42744.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

James R. Plihal, D.D.S., P.S. Fixed Benefit Pension Plan (the Plan) Located in Edmonds, Washington

[Prohibited Transaction Exemption 88–10; Exemption Application No. D–7158]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a parcel of unimproved real property from the Plan to James R. Plihal, D.D.S., a party in interest with respect to the Plan, provided the Plan receives no less than fair market value at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 23, 1987, at 52 FR 39726.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Manhattan Mutual Life Insurance Company Home Office Employees' Pension Plan (the Plan) Located in Manhattan, Kansas

[Prohibited Transaction Exemption 88–11; Exemption Application No. D–7175]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the December 1, 1985 transfer of $524,639 in securities to the Plan by the Manhattan Mutual Life Insurance Company, provided such amount constituted the fair market value of the securities on the date of the transfer.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 27, 1987 at 52 FR 45403.

EFFECTIVE DATE: This exemption is effective December 1, 1985.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Linton Industries, Inc. Retirement Plan and Trust (the Plan) Located in Lynnwood, WA

[Prohibited Transaction Exemption 88–12; Exemption Application No. D–7222]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan (the Loan) by the Plan of $240,000 to Linton Industries, Inc., a party in interest with respect to the Plan, provided the terms of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 23, 1987 at 52 FR 39726.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Figtown, Incorporated Profit Sharing Plan (the Plan) Located in Fresno, CA

[Prohibited Transaction Exemption 88–13; Exemption Application No. D–7253]

Exemption

The restrictions of section 406(a)(1), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed loan (the Loan) of a maximum of 25% of Plan assets as of the date of disbursement of the Loan proceeds by the Plan to First Herndon Properties (FHP), a party in interest with respect to the Plan, provided the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party; and (2) the personal guarantee of the Loan to the Plan by Mr. Larry Mesple and Mr. Randy J. Hill, parties in interest with respect to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 27, 1987 at 52 FR 45404.

Written Comments: The notice of proposed exemption states that the Loan would be in amount of $58,406, which amount constituted 25% of Plan assets at the time of the proposal. The applicant has advised the Department that the value of the Plan's total assets has increased to $259,967.25. The applicant has requested that, in consideration of the greater value of Plan assets, the exemption permit the loan to be increased to a maximum of 25% of Plan assets as of the date of the disbursement of the Loan proceeds. The independent fiduciary, Robert D. Coverdale, has been informed of the applicant's request for an increase in the amount of the Loan and has determined that such increase is in the Plan's best interest. Accordingly, the Department has determined to grant an exemption for the Loan not to exceed 25% of Plan assets as of the date of the disbursement of the Loan proceeds.

FOR FURTHER INFORMATION CONTACT: Mrs. Betsy Scott of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

M.E.F., Inc. Money Purchase Pension Plan and Trust and M.E.F., Inc. Profit Sharing Plan and Trust (collectively, the Plans) Located in Bellefontaine, OH

[Prohibited Transaction Exemption 88–14; Exemption Application No. D–7303]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed purchase by the individually-directed accounts in the Plans of Dr. Michael E. Failor (Dr. Failor) of certain farm property (the Farm), for the total cash consideration of $175,000, from the Estate of Pearl Lutz, of whom some of the beneficiaries are disqualified persons with respect to the Plans, provided the amount paid for the Farm is not more than the fair market value at the time the transaction is consummated.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 27, 1987 at 52 FR 45405.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Tai-Hee Kang, M.D., P.C. Employees Profit Sharing Plan (the Plan) Located in Charlevoix, Michigan

[Prohibited Transaction Exemption 88–15; Exemption Application No. D–7317]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale (the Sale) by the Plan of unimproved real estate located in Charlevoix, Michigan to Tai-Hee Kang, M.D., a disqualified person with respect to the Plan; provided that the terms and conditions of the Sale are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 27, 1987 at 52 FR 45406.

[1] Since Dr. Failor is the sole shareholder of M.E.F., Inc., the employer sponsoring the Plans, as well as the sole participant in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

FOR FURTHER INFORMATION CONTACT: Besty Scott of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subect to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of January, 1988.

Robert J. Doyle,

Acting Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88–1525 Filed 1–25–88; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–6762] et al.

Proposed Exemptions: Philip Specialty Co. et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Philip Specialty Company Restated Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Application No. D–6762]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of certain real property by the Plan to Philip Specialty Company (the Employer) for $119,000 in cash, provided that all of the terms of the proposed sale are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party on the date the transaction is consummated.

Summary Of Facts And Representations

1. The Plan is a profit sharing plan with 51 participants and total net assets of approximately $2,395,203 as of September 30, 1986. Republic Bank Dallas, N.A. is the trustee of the Plan (the Trustee). The Employer operates a machine shop and engages in the business of making machine parts for various industries.

2. The Plan owns real property which contains a 51,000 square foot tract of land and improvements located in Dallas County, Texas, described as lots 319, 320, 321 and 322 of Burbank Gardens, City of Grand Prairie, Texas (the Property). The Property, which is a small strip shopping center and two small rental houses built in the late 1930's was conveyed to the Plan by the Employer on December 21, 1970 in lieu of a cash contribution to the Plan. The value of the Property on December 21, 1970 was $95,000. The Property has been leased to unrelated parties since it was acquired by the Plan.

3. The Plan proposes to sell the Property to the Employer for its appraised value of $119,000 in cash. An independent appraisal of the Property was performed by G.H. Jaynes and Associates located in Dallas, Texas (the Appraisal). The Appraisal established the fair market value of the Property at $107,000 as of November 28, 1974. The Appraisal was updated by Wendell Pyles, M.A.I. of Wendell Pyles & Company located in Dallas, Texas. This update to the Appraisal established the fair market value of the Property at $119,000 as of August 14, 1986.

4. The applicant represents that the Trustee is unrelated to the Plan, the Employer and the Board of Directors of the Employer. The Trustee believes that the sale of the Property by the Plan is prudent and is in the best interest of the Plan and its participants and beneficiaries. The Trustee represents that real estate in the area in which the Property is located, particularly for retail use, is not easily sold or leased. The outlook for finding an unrelated buyer for the Property is not expected to improve because the real estate market in the Dallas-Ft. Worth area is very depressed. Approximately one-fifth of the Property's retail space has been vacant for more than one year. In order to attract new tenants, the Property would need at least $12,500 in improvements, and the Trustee does not consider it wise to invest additional Plan assets on the Property.

5. As of September 30, 1986, the Property constituted approximately 5% of the total assets of the Plan. Based on the Appraisal, the applicant represents that the Property has appreciated only at an average annual rate of .8% per year. Further, the sale of the Property to the Employer will avoid payment of a substantial commission to a listing broker which would be paid if the Property was sold to an unrelated party.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The proposed sale will be a one-time transaction for cash;

(2) The Plan will receive the fair market value for the Property;

(3) The Plan will pay no real estate commissions;

(4) The Plan will be able to dispose of an asset which would be difficult to sell or lease to an unrelated party; and

(5) The Trustee has determined that the proposed sale is in the interests of and protective of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Mr. Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Individual Retirement Account of Robert R. Black (the IRA) Located in Dallas, Texas

[Application No. D-6866]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of a parcel of real property (the Property) located in Keller, Texas, by the IRA to Mr. Robert R. Black (Mr. Black) for $333,000 in cash, provided such amount is not less than the fair market value of the property on the date of the sale.[1]

Summary of Facts and Representations

1. The IRA is a self-directed IRA described in section 408(a) of the Code with RepublicBank Dallas, N.A. as the trustee. The IRA was adopted by Mr. Black on December 24, 1981. As of July 16, 1986, the IRA consisted of the Property and approximately $32,000 in cash.

2. The Property consists of approximately 27.38 acres of unimproved, non-income producing land located at the intersection of F.M. 1709 and Pate Orr Road in the City of Keller, Tarrant County, Texas. The Property was previously an asset of the profit sharing plan of Mr. Black's prior employer, Southwest Foam Molding, Inc. The Property was distributed from that plan upon Mr. Black's separation from service, whereupon the Property was rolled over into the IRA.

3. Since its acquisition by the IRA, the Property, which is zoned for residential purposes, has been vacant and represents an illiquid and non-income producing asset of the IRA. Mr. Black proposes to purchase the Property from the IRA for cash at its appraised fair market value. No commissions will be paid by the IRA with respect to the sale.

4. Messrs. Kenneth L. Huffman, MAI, and James E. Hogg, Consulting Appraiser, of Appraisal Services, Inc., independent appraisers in Fort Worth, Texas, have appraised the Property as having a fair market value of $333,000 as of December 3, 1987. Accordingly, Mr. Black proposes to purchase the Property from the IRA at that price.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 4975(c)(2) of the Code because: (1) The sale is a one-time transaction for cash; (2) no commissions will be paid upon the sale; (3) the sales price for the Property has been determined by a qualified, independent appraiser; and (4) Mr. Black is the only participant in the IRA and he has determined that the transaction is appropriate for and in the best interests of the IRA and desires that the transaction be consummated.

Notice of Interested Persons: Because Mr. Black is the only participant in the IRA, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days after the publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

People's Bank (People's) Located in Bridgeport, Connecticut

[Application No. D-7187]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the sale by People's of its subsidiary's stock to the Keogh Plans (the Keoghs) for which People's services as custodian, as part of an initial issue of such stock, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the sale by People's of its subsidiary's stock to the individual retirement accounts (the IRAs) for which Prople's serves as custodian, as part of an initial issue of such stock, provided the Keoghs and IRAs pay no more than the fair market value of the stock on the date of the sale.[2]

Summary of Facts And Representations

1. People's is a mutual savings bank organized under the laws of the State of Connecticut. People's is in the process of reorganizing (the Reorganization) pursuant to Connecticut Public Act 85-330 (the Reorganization Act) from its current form as a mutual savings bank to a mutual holding company with a capital stock subsidiary bank (the Bank) which will assume substantially all of the operations of People's. The majority of the Bank's stock will be held by People's in its reorganized form as a mutual holding company.

2. In connection with, and as part of the Reorganization, the Bank proposes to offer between 20% and 30% of its stock to the public. The Reorganization Act prohibits the Bank from selling or offering to sell its common stock or securities convertible into common stock unless it first gives to each "eligible account holder" subscription rights to acquire Bank stock pursuant to a subscription offering. Regulations issued by the Department of Banking of the State of Connecticut clearly establish that the IRAs and the Keoghs, held in time deposits by People's as custodian, are eligible accounts requiring that the holders of those accounts receive subscription rights to purchase Bank stock. Accordingly, People's intends to grant to its IRA and Keogh depositors subscription rights to Bank stock in connection with the Reorganization. After the Reorganization, the Bank stock will be traded publicly on the Over-the-Counter market.

3. People's currently acts as custodian for approximately 64,000 IRA customers and 2,000 participants in custodial Keoghs with assets, in the aggregate, of approximately $500 million. These assets represent approximately 12% of total deposits held by People's. People's as custodian has no discretionary authority with respect to the investment of IRA or Keogh assets. All investments are made at the direction of the account holder within the range of investment choices permitted by the plan documents. The applicants represent that no single IRA or Keogh account will be permitted to invest more than 25% of the assets of such account in stock of the Bank in connection with this initial offering.

4. In accordance with the provisions of the Reoganization Act, People's must submit to the Connecticut Banking Commissioner (the Commissioner) a plan outlining the terms of the subscription offering. Within 15 days from the date of that submission,

[1] Because the IRA does not meet the conditions described in 29 CFR 2510.3-2(d), there is not jurisdiction under Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[2] Because the IRAs do not meet the conditions described in 29 CFR 2510.3-2(d), there is no jurisdiction with respect to the IRAs under Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

People's will be required to mail to each eligible account holder, including holders of IRAs and Keoghs, a notice that the Board of Trustees has approved the sale of a certain number of shares of common stock or securities convertible into common stock, a description of the rights of such depositors to subscribe to such stock and various other information concerning rights of stockholders. Subscription rights must be exercised within a period ending no sooner than 60 days from the date the subscription plan is submitted to the Commissioner, or they will expire. Pursuant to the terms of the proposed transaction, the IRA and Keogh customers would notify People's within that subscription period of their direction to invest the assets of their IRA and Keogh accounts in Bank stock. Since the purchase of stock will be made in connection with an initial issue, no broker will be involved and purchases will be made by the IRA or Keogh directly from the Bank. Since no broker is involved in the transaction, no commissions will be paid with respect to the purchase.

5. As part of the subscription plan submitted to the Commissioner, People's will include an appraisal prepared by an independent firm of the estimated market value of the Bank and the Bank stock to be issued. The valuation will be based on financial information relating to People's and the economic environment in which it operates, a comparison of People's with selected publicly held thrift institutions and with other thrift institutions located in Connecticut, and any other factor as the independent appraiser may deem to be appropriate. The valuation will be stated in terms of a subscription price range, the maximum of which will be no more than 15% above the average of the minimum and maximum of such price range, and the minimum of which will be no more than 15% below such average. After the subscription plan is approved by the Commissioner, the independent appraiser will review, prior to the subscription offering, all developments subsequent to its initial valuation in order to confirm or amend its determination of the initial subscription price range. The subscription price will be no less than the minimum of the price range, nor any greater than the maximum of the price range.

6. Concurrently with the subscription offering, People's may offer the opportunity to purchase all shares not subscribed for in the subscription offering to: (a) Certain other customers of People's who may not have qualified as eligible account holders; (b) trustees, officers or employees of People's or its affiliates, and (c) residents of Fairfield, New Haven, Tolland, Hartford and Litchfield Counties, Connecticut (the Community Offering). If all shares of Bank stock are sold through the exercise of subscription rights and through the Community Offering, the independent appraiser will re-examine its estimate of the market value of the Bank and of the shares of Bank stock as of the last day of the subscription offering and the Community Offering. If at that time the independent appraiser's estimate of the value of Bank stock is less than the subscription price (but not less than the minimum of the originally estimated price range), then that estimated value will become the final purchase price for Bank stock and the Bank will refund to all purchasers the difference between the subscription price and the independent appraiser's final estimated value of Bank stock. If, however, the independent appraiser's final estimate of the value of Bank stock exceeds the subcription price (or is less than the minimum of the originally estimated price range), then with the approval of the Commissioner, People's will either terminate the subscription plan, establish a new subscription price range or adjust the total number of shares of the Bank so that the market value per share will be within the subscription price range.

7. If all the shares of Bank stock to be sold are not sold through the exercise of subscription rights or through the Community Offering, the remaining shares will be sold to the public after approval of a public offering circular by the Commissioner. The independent appraiser will again update its prior appraisal of the estimated market value of Bank stock. If there is any change in that appraisal, the number of shares of the Bank may be adjusted to reflect the increase or decrease of the appraised value of the Bank stock. That number of shares will then be sold to or through the underwriters of the public offering pursuant to the terms of an underwriting agreement. In the event the sale price of Bank stock pursuant to the public offering is less than the price paid for exercise of subscription rights or pursuant to the Community Offering, the difference will be refunded to those who paid the higher price.

8. The applicants represent that the entire process is designed to ensure that the price paid for Bank stock is its fair market value. In any event, the determination as to the price to be paid for Bank stock will be subject to approval by the Commissioner.

9. In summary, the applicants represent that the proposed transaction meets the criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (1) The decision to purchase the Bank stock will be made by IRA and Keogh customers out of a range of investment choices, and People's has no discretion over such decision; (2) no fees or commissions will be paid with respect to the transaction; (3) no more than 25% of the assets of any IRA or Keogh account will be invested in Bank stock in connection with the initial offering; and (4) the purchase price of the stock will be determined by independent appraisal, and must be approved by the Commissioner.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

William H. Kimball, Inc. Profit Sharing Plan (the Plan) Located in Orinda, California

[Application No. D-7238]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4875(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).[3] If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase by the Plan for cash of certain real property from William H. Kimball (Mr. Kimball), a disqualified person with respect to the Plan, provided the price paid is no more than the fair market value of the property on the date of sale.

Summary of Facts And Representations

1. The plan is a profit sharing plan with Mr. Kimball as the sole participant. As of September 4, 1987, total Plan assets were approximately $564,000. Mr. Kimball is the Plan trustee and the sole shareholder of the Plan sponsor.

2. Mr. Kimball purchased a 40 acre ranch (the Real Property) in Imperial Valley, California in 1981. The Real Property has a fully operational undergound irrigation system and was planted with jojoba plants in 1982. The

[3] The applicant represents that William H. Kimball is the sole shareholder of William H. Kimball, Inc., the Plan sponsor, and the sole participant in the Plan. Accordingly, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

jojoba plant grows well in the desert and produces a bean containing an oil utilized widely in lubricants, cosmetics, and soaps. The applicant represents that the total cost of acquiring the ranch, adding the irrigation system, planting the permanent crop, and maintaining agricultural activities for the past 5 year period has been in excess of $200,000.

3. On October 1, 1987, Donald Rosson (Mr. Rosson), an independent qualified appraiser, of Donald Rosson Appraisals, real estate appraisers doing business in El Centro, California, estimated the fair market value of the Real Property to be $138,000.

4. The applicant proposes that the Plan purchase the Real Property for the cash consideration of $138,000, the fair market value set by Mr. Rosson. The Real Property will be held in Mr. Kimball's account in the Plan, so that if there are ever any other participants in the Plan their accounts will be unaffected by the proposed transaction.

5. The applicant represents that the Real Property has excellent long-term income potential and that the proposed transaction offers the Plan the opportunity to purchase an operational ranch for significantly less than the actual cost of development.

6. The applicant represents that the Real Property will either be leased to an unrelated third party or operated for the Plan by an independent manager. Neither Mr. Kimball nor any other disqualified person will lease or otherwise have use of or profit from the Real Property.

7. In summary, the applicant represents that the proposed transaction satisfies the terms and conditions of section 4975(c)(2) of the Code because: (a) The Real Property has excellent long-term income potential: (b) the appraised fair market value of the Real Property is significantly lower than the cost of acquiring and improving a comparable ranch; (c) the Real Property represents less than 25% of the Plan's assets; and (d) Mr. Kimball, the Plan's trustee, and the only participant to be affected by the transaction, desires that the transaction be consummated.

Notice to Interested Persons: Because Mr. Kimball is the only participant in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Knoxville Anesthesia Group, P.C. Money Purchase Plan (the Plan) Located in Knoxville, Tennessee

[Application No. D–7310]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of an art print from the individual account in the Plan of Robert Harris, M.D. (Harris), a party in interest with respect to the Plan, to Harris, provided the Plan receives no less than fair market value for the print at the time of sale and provided further that the Plan experiences no loss in connection with the acquisition and holding of the print.

Summary of Facts and Representations

1. The Plan is a money purchase plan sponsored by the Knoxville Anesthesia Group (the Employer) which is a professional corporation. As of March 31, 1987, the Plan had 30 participants and total assets of $3,056,755. The Plan provides individual, segregated accounts for each participant and permits each participant to direct the investments of his or her account.

2. Harris is a member of the Knoxville Anesthesia Group and a participant in the Plan. The assets in Harris' individual account in the Plan as of the date of the application totaled $316,196. In April 1980 Harris had purchased for his previous plan, an H.R. 10 plan, a print by Joan Miro entitled "Montroig No. 3," dated 1973. The print was purchased for $5,000 from Cory Galleries in San Francisco, an unrelated entity. Subsequently, the print was rolled over from the H.R. 10 plan to Harris' account in the Plan in March 1983. The applicant notes that the original purchase of the print was made prior to the provisions of section 408(m) of the Code which concern the purchase of collectibles for individually directed accounts of plans qualified pursuant to Code section 401(a).[1] Since the time of its acquisition by the Plan, the print has been held in the vault of the Valley Fidelity Bank and Trust Co. of Knoxville, Tennessee. The related storage costs and insurance premiums have been paid by Harris.

3. An appraisal was made on the print on April 3, 1987, by Elaine Altman Evans (Evans), the curator of collections for the Frank H. McClung Museum of the University of Tennessee at Knoxville. The applicant represents that Evans is independent of Harris and the Plan. According to Evans, the print is an original lithograph printed in color in an edition of 75. Evans described the condition of the print as excellent and estimated its fair market value to be $2,200.

4. The Plan has held the print for sale to unrelated third parties, but has been unable to obtain an offer equal to or above the original purchase price. According to the applicant, the cost of appropriate storage facilities has become too high in regard to the continued holding of the print as a Plan investment. Accordingly, the Plan proposes to sell the print from Harris' individual account in the plan to Harris. The transaction will be entirely for cash and the Plan will pay no fees or commissions in regard to the sale. Harris will pay either the acquisition cost of $5,000 for the print or fair market value at the time of sale, based on an updated independent appraisal, whichever is higher. The Plan will invest the proceeds of the sale in assets which should produce more appreciation and income for Harris' individual account.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The sale of the print will be entirely for cash; (2) Harris will pay either the acquisition cost of the print or its fair market value at the time of sale, whichever is higher; (3) the transaction will involve only Harris' individual account in the Plan; and (4) the proceeds of the sale will be invested in assets which should produce more appreciation and income for Harris' account.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[1] Section 408(m) of the Code provides that the acquisition after December 31, 1981, by an individually directed account under a plan described in Code section 401(a) of a collectible (including any work of art) shall be treated as a distribution from the account in an amount equal to the cost to the account of the collectible. The Department expresses no opinion herein as to whether the roll-over of the print from the H.R. 10 plan to Harris' account in the Plan constituted an acquisition for proposes of section 408(m) of the Code.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of January, 1988.

Robert J. Doyle,

Acting Associate Director, Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-1526 Filed 1-25-88; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-07]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by February 25, 1988. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Rayburn A. Metcalfe, NASA Agency Clearance Officer, Code NP, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

Reports

Title: Locator and Information Services Tracking System (LISTS).

Type of Request: New.

Frequency of Report: As required.

Type of Respondent: Individuals or households, Federal agencies or employees.

Annual Responses: 7,250.

Annual Burden Hours: 600.

Abstract-Need/Uses: The proposed establishment of LISTS would identify, protect and maintain the field of privacy information housed in the Goddard Space Flight Center (GSFC) database. This system will also serve as a tool for performing short- and long-term institutional planning.

Rayburn A. Metcalfe,

Acting Director, General Management Division.

January 7, 1988.

[FR Doc. 88-1472 Filed 1-25-88; 8:45 am]

BILLING CODE 7510-01-M

[Notice (88-06]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Acoustic Wind Tunnel Requirements.

DATE AND TIME: February 16, 1988, 8:30 a.m. to 5 p.m., and February 17, 1988, 8:30 a.m. to 5 p.m.

ADDRESS: McDonnell Douglas Helicopter Company, 5000 East McDowell Street, Building 530, Executive Conference Room, Mesa, AZ 85201.

FURTHER INFORMATION CONTACT: Dr. Randolph A. Graves, Jr., Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2828.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance of the Office of Aeronautics and Space Technology (OAST) on aeronautics research and technology activities. Special ad hoc review teams were formed to address specific topics. The Ad Hoc Review Team of Acoustic Wind Tunnel Requirements, chaired by Mr. Dean Borgman, is comprised of ten members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the team members and other participants).

Type of Meeting: Open.

Agenda:

February 16, 1988:

8:30 a.m.—Survey of Wind Tunnel Acoustic Test Requirements, Summary and Discussion.

5 p.m.—Adjourn.

February 17, 1988:

8:30 a.m.—Existing and Proposed

Acoustic Wind Tunnel Test Capability.

5 p.m.—Adjourn.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

January 19, 1988.

[FR Doc. 88-1473-Filed 1-25-88; 8:45 am]

BILLING CODE 7510-01-M

[Notice 88-05]

Privacy Act of 1974; Notice of New System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (Pub. L. 93-579), as amended, NASA is proposing to establish a new system of records, "Locator and Information Services Tracking System, LISTS." Background information about the proposed system is in the **SUPPLEMENTARY INFORMATION** section.

DATE: NASA filed a report of a new system of records with the President of the Senate, the Speaker of the House of Representatives, and the Administrator, Office of Management and Budget (OMB). The new system will become effective on March 28, 1988, unless NASA receives comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to the Head, Administrative Support Branch, Code 231 O, Logistics Management Division, NASA Goddard Space Flight Center, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Mark E. Walther, 301-286-8823, or Richard L. Daniels, 202-453-2975.

SUPPLEMENTARY INFORMATION: NASA proposes to establish a new system of records for LISTS to properly identify, protect, and maintain the fields of privacy information housed in Goddard's data base. The Goddard Space Flight Center (GSFC) is authorized to maintain the information because of the responsibilities it has to provide quality institutional services to meet facility needs. Specifically, the absence of the LISTS privacy fields would greatly handicap security and library operations who depend on the privacy information contained in LISTS to perform their respective duties. Certain elements of the privacy sub-data base are also used for long-term institutional planning. The ability to use such fields as date of birth and citizenship are key components of an effective demographic trend analysis of GSFC's workforce. Beyond these programmatic authorities, GSFC is also authorized to maintain this system under the governing statutes of 5 U.S. Code 301, 42 U.S. Code 2473, and 44 U.S. Code 3101.

There is no known adverse effect of this proposal on the privacy of individuals information about which is contained in LISTS. The data are adequately protected in their electronic medium (main frame computer disk storage) by various levels of password controls and access rights. Collection of the information on hard copy forms is controlled by a privacy act statement of use and by limited handling of the forms by "need to know" individuals only.

There is no known relationship of this proposal to other branches of the Federal Government and to State and local governments. Unauthorized access to the system of records is controlled at five levels: first, pre-approved assignment of a user ID and password to enter the Customer Information Control System (CICS) under which LISTS exists; second, a second ID/password authorization to enter the programming language region within CICS (NATURAL/ADABASE); third, a separate authorization table on which a user must appear to be granted access to LISTS, fourth, a certain access rights designation must be given on the authorization table to allow visibility to the privacy data; and fifth, a separate password must be known and used in combination with the above criteria to achieve access to the privacy data.

Richard L. Daniels,

NASA Privacy Officer.

January 7, 1988.

NASA 51 Lists

SYSTEM NAME:

Locator and Information Services Tracking System (LISTS)—NASA.

SYSTEM LOCATION:

Goddard Space Flight Center, Greenbelt, MD 20771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All on-site and off-site NASA/GSFC civil servants and on-site and near-site contractors, tenants, and other guest workers possessing or requiring badge identifications.

CATEGORIES OF RECORDS IN THE SYSTEM:

In order to achieve the goal for LISTS of a comprehensive and accurate source of information for institutional services and planning, general and personal information as noted below must be collected.

General information: (1) Last Name; (2) First Name; (3) Middle Initial; (4) Nickname; (5) Title/Degree; (6) Position/Job Title; (7) Skill Classification; (8) Administrative Level; (9) Organization Code; (10) Mail Code; (11) Telephone Extension; (12) Alternate Telephone Extension; (13) Building; (14) Room; (15) Use of Office Space; (16) Shift Worked; (17) Off-Site Telephone Number; (18) Off-Site Location; (19) Contract Number; (20) Authorization Type if Non-Contractor/Civil Servant; (21) and (22) Acronym of Contractor and/or Host Organization; and (23) Goddard Identification Number.

Personal information: (1) Social Security Number; (2) Birth Date; (3) Sex; (4) Citizenship; (5) If Not U.S. Citizen, Immigration Alien Number; (6) Street Residence; (7) City Residence; (8) County Residence; (9) State Residence; (10) Zip Code Residence; (11) Residence Telephone; (12) Name of Emergency Contact; (13) Relationship of Emergency Contact; (14) Telephone Number of Emergency Contact; and (15) Address of Emergency Contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The intended official uses of the privacy and personal information are: To assist the Security Office in issuing picture badge identifications and coordinating clearance requests; to establish for the Library an authorization for use of its printed materials; to identify the listed emergency contact in case of an emergency to a center employee or guest worker; and to provide a home address in case an employee or guest worker must be contacted during off hours or for official mailings to a home address.

Other official uses of the general (non-privacy/personal) records are: To locate individuals working for or at the Goddard Space Flight Center; to improve services provided to the center including mailroom operations, space utilization, identification of potentially hazardous work environments, scheduling of annual physical examinations, and maintenance of electronic mail user identification names; and as a tool for performing short- and long-term institutional planning.

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review, and management decisions regarding personnel and institutional services related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative, or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A single copy of each record is maintained in file folders. The records are also stored on computer storage discs and tapes hardware and ADABASE/Natural software.

RETRIEVABILITY:

General fields are indexed by any one or combination of choices to authorized users. Personal fields are not retrievable except by designees in the Security and Library Offices and the System Manager. For the Library the retrievability is for Social Security Number, Immigration Alien Number, and Name only.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212 and through the password and access protections built into the data base management software system.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Administrative Support Branch, Code 231.0, Logistics Management Division, Goddard Space Flight Center, Greenbelt, MD 20771.

NOTIFICATION PROCEDURE:

Apply to the System Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.) indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (current employee, former employee, civil servant, contractor, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain.

[FR Doc. 88-1474 Filed 1-25-88; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL COMMUNICATIONS SYSTEM

Federal Telecommunication Standards; Solicitation for Comments

AGENCY: National Communications System, Office of Technology and Standards.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on proposed Federal Telecommunications Standard 1023; "Telecommunications: Interoperability Requirements for Encrypted, Digitized Voice Utilized with 25 kHz Channel FM Radios Operating Above 30 MHz."

DATE: Comments are due by April 25, 1988.

ADDRESS: Send comments to the National Communications System, Office of Technology and Standards, Washington, DC 20305-2010.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Fenichel, National Communications System, telephone (202) 692-2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Requests for copies of the January 14, 1988 draft of FED-STD 1023 should be directed to the National Communications System, Office of Technology and Standards, Washington DC 20305-2010.

Dennis Bodson,

Assistant Manager, NCS Office of Technology & Standards.

[FR Doc. 88-1553 Filed 1-25-88; 8:45 am]
BILLING CODE 3610-05-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before February 25, 1988.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-786-01233) and Ms. Elaina Norden, Office of Management and Budget, New

Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202) 786–0233 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Applications and Instruction Forms for the Translations Category
Form Number: Not applicable
Frequency of Collection: Annual
Respondents: Humanities researchers and institutions
Use: Appication for funding
Estimated Number of Respondents: 115
Estimated Hours for Respondents to Provide Information: 60 per respondent.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 88–1498 Filed 1–25–88; 8:45 am]

BILLING CODE 7536–01–M

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before February 25, 1988.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202–786–0233) and Ms. Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 786–0233, from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Applications and Instruction Forms for the Humanities, Science and Technology Category
Form Number: Not applicable
Frequency of Collection: Annual
Respondents: Humanities researchers and institutions
Use: Application for funding
Estimated Number of Respondents: 43
Estimated Hours for Respondents to Provide Information: 52 per respondent.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 88–1499 Filed 1–25–88; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committees for Physics, Astronomy and Mathematical Sciences; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committees for Physics, Astronomy and Mathematical Sciences; Subcommittee for the Review of Support in Cosmology.

Date and Time: February 8, 1988; 9:00 a.m. to 5:00 p.m. February 9, 1988; 9:00 a.m. to 1:00 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, DC 20550. February 8: Room 642; February 9: Room 341.

Type of Meeting: Open.

Contact Person: Dr. M. Kent Wilson, Executive Officer, Directorate for Mathematical and Physical Sciences, Room 512, National Science Foundation, Washington, DC 20550, (202) 357–9744.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice on the need for, value of, and scale of Foundation support of cosmology.

Agenda: Both days of the meeting will involve discussions of the needs and potential of the field.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88–1477 Filed 1–25–88; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–538]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Order Authorizing Dismantling of the Reactor and Disposition of Component Parts; Memphis State University

The Nuclear Regulatory Commission is considering issuance of an Order authorizing Memphis State University (MSU) to dismantle their AGN–201 reactor facility in Memphis, Shelby County, Tennessee and to dispose of the reactor components in accordance with the application dated November 10, 1986, as supplemented.

Environmental Assessment

Identification of Proposed Action

By application dated November 10, 1986, as supplemented, Memphis State University requested authorization to decontaminate and dismantle the AGN–201 research reactor, to dispose of its component parts in accordance with the proposed dismantling plan, and to terminate Facility Operating License No. R–127. Following the reactor shutdown the fuel was removed from the core tank and shipped to an authorized Department of Energy facility.

Opportunity for hearing was afforded by the notice of "Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" published in the **Federal Register** on February 13, 1987 (52 FR 4693).

Need for Proposed Action

In order to prepare the facility for unrestricted access and use, the dismantling and decontamination activities proposed by MSU must be accomplished.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previsouly reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The staff has calculated that the collective dose equivalent for the project will be less than 2 person-rem.

These conclusions were based on the fact that all proposed operations are carefully planned and controlled, all contaminated components are removed, packaged, and shipped offsite, and that the radiological control procedures ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR Part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the MSU facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

Alternative Use of Resources

The only alternative to the proposed dismantling and decontamination activities is to maintain the facility as a restricted area. This approach would include monitoring and reporting for the duration of the safe storage period. However, the University intends to use the area for other academic purposes.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action based upon the foregoing environmental assessment. We conclude that the proposed action will not have a significant effect on the quality of the human environment.

For detailed information with respect to this proposed action, see the application for dismantling, decontamination and license termination dated November 10, 1986, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, Maryland this 20th day of January 1988.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–1543 Filed 1–25–88; 8:45 am]

BILLING CODE 7590–25–M

[Docket No. 50–87]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Order Authorizing Dismantling of the Reactor and Disposition of Component Parts; Westinghouse Electric Corp.

The Nuclear Regulatory Commission is considering issuance of an Order authorizing the Westinghouse Electric Corporation (Westinghouse) to dismantle the Nuclear Training Reactor Facility in Zion, Illinois and to dispose of the reactor components in accordance with the application dated July 8, 1987, as supplemented.

Environmental Assessment

Identification of Proposed Action

By application dated July 8, 1987, as supplemented, Westinghouse requested authorization to dismantle the 10 kilowatt (thermal) Westingthouse Nuclear Training Reactor (WNTR), to dispose of its components parts and radioactive material, and decontaminate the facility in accordance with the proposed dismantling plan, and to terminate Facility Operating License No. R–119. The WNTR was shut down in February 1987, and has not been operated since then. Subsequently, the reactor fuel elements, including control rod followers were removed from the core tank and placed in storage. The fuel, control rod followers and neutron sources were shipped to a Department of Energy Facility prior to receipt of a possession-only license, which was issued on October 5, 1987.

Opportunity for hearing was afforded by the notice of "Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" published in the **Federal Register** on September 14, 1987 (52 FR 34732). No request for hearing or petition for leave to intervene was filed following notice of the proposed action.

Need for Proposed Action

In order to prepare the facility for unrestricted access and use, the dismantling and decontamination activities proposed by Westinghouse must be accomplished.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The operations are calculated to result in a total radiation exposure of less than 2 person-rem to facility staff and the public.

These conclusions were based on the fact that all proposed operations are carefully planned and controlled, all contaminated components are removed, packaged, and shipped offsite, and that the radiological control procedures ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR Part 20 and are as low as reasonably achievable (ALARA).

Based on their review of the specified proposed activities associated with the dismantling and decontamination of the WNTR facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

Alternative Use of Resources

The only alternative to the proposed dismantling and decontamination activities is to maintain the facility as a restricted area. This approach would include monitoring and reporting for the duration of the safe storage period. However, the facility management intends to use the area for other purposes.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action based upon the foregoing environmental assessment. We conlcude that the proposed action will not have a significant effect on the quality of the human environment.

For detailed information with respect to this proposed action, see the application for dismantling, decontamination and license termination dated July 8, 1987, as supplemented and the Safety Evaluation

prepared by the staff. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Atttention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Bethesda, Maryland this 20th day of January 1988.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-1544 Filed 1-25-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a seminar on February 10, 1988, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 10, 1988—8:30 a.m. until the conclusion of business.

Dr. Richard Pew of Bolt, Beranak and Newmon, Inc., will discuss with the Subcommittee topics of interest regarding Human Factors.

Questions may be asked only by members of the Subcommittee.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting.

Following the presentation by Dr. Pew, there will be a brief period to allow Subcommittee discussion of the topics.

Further information regarding topics to be discussed or whether the meeting has been cancelled or rescheduled can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634-1414) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: January 20, 1988.

M. W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-1545 Filed 1-25-88; 8:45am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; 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. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the Licensee) for operation of Vermont Yankee Nuclear Power Station located in Windham County, Vermont.

The amendment would change the Technical Specifications to eliminate the present requirements to test the remaining train(s) of the ECCS and SLC Systems when one train has a component out of service. In lieu of the possibly non-conservative alternative testing program presently required by the Technical Specifications when systems are determined to be inoperable, the licensee proposes that the "alternate" system be determined operable based on the Vermont Yankee In-Service Testing Program results and verification that the system is in an operable status. The licensee's application for amendment is dated December 7, 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 February 25, 1988 the licensee 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. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing on 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 witnessess.

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 Richard Wessman, 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 John A. Ritscher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the license.

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 2.71(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 7, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Dated at Bethesda, Maryland this 19th day of January, 1988.

For the Nuclear Regulatory Commission.

Richard H. Wessman,

Acting Director, Project Directorate I–3, Division of Reactor Projects I/II.

[FR Doc. 88–1546 Filed 1–25–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corp.; 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. DPR–28 issued to Vermont Yankee Nuclear Power Corporation (the licensee), for operation of Vermont Yankee Nuclear Power Station, located in Windham County, Vermont.

This amendment, in accordance with the licensee's application for amendment dated November 30, 1987, revises surveillance frequency requirements for trip system logic testing and calibration from once every six months to once per operating cycle and requires more detailed testing then is presently required by Technical Specifications. The following systems are affected by this change:

Core Spray System
Low Pressure Coolant Injection System
High Pressure Coolant Injection System
Automatic Depressurization System
Recirculation Pump Trip Actuation System
Primary Containment Isolation
High Pressure Coolant Injection System Isolation
Reactor Core Isolation Cooling System Isolation
Reactor Building Ventilation System Isolation and Standby Gas Treatment System Isolation
Off-Gas System Isolation
Control Rod Block System

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 February 25, 1988 the licensee 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. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made of 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 preharing 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 Vernon Rooney, 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 Council-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

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 November 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Brooks Memorial Library, 2324 Main Street, Brattleboro, Vermont 05301.

Dated at Bethesda, Maryland, this 20th day of January, 1988.

Vernon L. Rooney,

Project Manager, Project Directorate I-3, Division of Reactor Projects I/II.

[FR Doc. 88-1547 Filed 1-25-88; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Forms Under Review by Office of Management and Budget

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), this notice announces forms which have been submitted to OMB's Office of Information and Regulatory Affairs for clearance:

SF-269, Financial Status Report—Long Form
SF-269a, Financial Status Report—Short Form
SF-424, Application for Federal Assistance (Facesheet)
SF-424a, Budget Information—Nonconstruction Programs
SF-424b, Assurances—Nonconstruction Programs
SF-424c, Budget Information—Construction Programs
SF-424d, Assurances—Construction Programs

The forms revise and will replace standard application and financial expenditure forms currently prescribed in OMB Circular A-102, "Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments". Public comment on the proposed revisions was solicited in a **Federal Register** Notice May 29, 1987 (52 FR 20178). Federal agencies use the applications to qualify and select grantees and the financial expenditure forms to monitor the status of grant funds.

Reporting Estimates: Following are the reporting estimates for each of the revised forms:

Form	Average burden (hours)	Annual forms submitted
SF-269	.5	200,000
SF-269a	1.5	200,000
SF-424	.75	400,000
SF-424a	3	360,000
SF-424b	.25	360,000
SF-424c	3	40,000
SF-424d	.25	40,000

FOR FURTHER INFORMATION CONTACT: For copies of the request or revised forms, call (202) 395-3050 or write: Jonathan D. Breul, Financial Management Division, Office of Management and Budget, Room 10215, New Executive Office Building, Washington, DC 20503.

ADDRESSES: Written comments should be sent to: Edward Springer, OMB Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, DC 20503.

Gerald R. Riso,

Associate Director for Management and Chief Financial Officer.

[FR Doc. 88-1483 Filed 1-25-88; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Public Information Request Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S.C., Chapter 35), this notice announces a request to clear a public information collection. RI 30-3, Information Necessary for a Competency Determination, is used to provide information to an individual applying to be a representative payee for a Civil Service Retirement annuitant/survivor annuitant who is incapable of handling his or her own funds. It is used in conjunction with RI 20-7, Representative Payee Questionnaire, and provides information on the documents required before OPM will appoint a representative payee due to incompetency. There are 2,300 individuals who respond annually for a total public burden of 4,160 hours. For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632-7714.

DATE: Comments on this proposal should be received by February 5, 1988.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415,

and

Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 88-1507 Filed 1-25-88; 8:45 am]

BILLING CODE 6325-01-M

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 653-9404.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on December 22, 1987 (52 FR 45035). Individual authorities established or revoked under Schedule A, B, or C between December 1, 1987, and December 31, 1987, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities

will be published as of June 30 of each year.

Schedule A

No Schedule A exceptions were established or revoked during December.

Schedule B

No Schedule B exceptions were established or revoked during December.

Schedule C

Department of Agriculture

One Southeast Area Director to the Deputy Administrator for State and County Operations. Effective December 7, 1987.

One Confidential Assistant to the Administrator for Agricultural Stabilization and Conservation Service. Effective December 10, 1987.

One Director, Legislative and Public Affairs to the Administrator for Animal and Plant Health Inspection Service. Effective December 22, 1987.

Department of Commerce

One Congressional Liaison Specialist to the Under Secretary for International Trade Administration. Effective December 3, 1987.

One Congressional Liaison Assistant to the Deputy Assistant Secretary for Congressional Affairs. Effective December 3, 1987.

One Confidential Assistant to the Deputy Under Secretary for Travel and Tourism. Effective December 7, 1987.

One Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations. Effective December 9, 1987.

One Confidential Assistant to the Deputy Assistant Secretary for Grant Programs. Effective December 18, 1987.

Department of Defense

One Private Secretary to the General Counsel. Effective December 1, 1987.

One Staff Assistant to the Chairman for Joint Chiefs of Staff. Effective December 1, 1987.

One Staff Assistant to the Assistant to the Chairman for Joint Chiefs of Staff. Effective December 1, 1987.

One Secretary (Steno) to the General Counsel. Effective December 7, 1987.

One Public Affairs Specialist to the Principal Deputy Assistant Secretary of Defense. Effective December 11, 1987.

One Personal and Confidential Assistant to the Director for Operational Test and Evaluation. Effective December 18, 1987.

Department of Education

One Confidential Assistant to the Assistant Secretary for Educational Research and Improvement. Effective December 4, 1987.

One Staff Assistant to the Deputy Under Secretary for Management. Effective December 8, 1987.

One Special Assistant to the Deputy Assistant Secretary for Special Education and Rehabilitative Services. Effective December 8, 1987.

One Confidential Assistant to the Assistant Secretary for Postsecondary Education. Effective December 9, 1987.

One Confidential Assistant to the Secretary's Senior Special Assistant for Scheduling and Briefing Staff. Effective December 18, 1987.

Department of Energy

One Secretary (Confidential Assistant) to the Secretary of Energy. Effective December 4, 1987.

One Secretary (Confidential Assistant) to the Special Assistant to the Secretary. Effective December 4, 1987.

One Confidential Assistant to the Commissioner. Effective December 7, 1987.

One Secretary (Confidential Assistant to the Deputy Secretary. Effective December 14, 1987.

One Confidential Assistant (Secretary) to the Assistant Secretary for Defense Programs. Effective December 17, 1987.

One Senior Policy Assistant to the Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs. Effective December 24, 1987.

One Staff Assistant to the Assistant Secretary for Management and Administration. Effective December 24, 1987.

Department of Health and Human Services

One Confidential Assistant to the Director for Office of Legislation and Policy. Effective December 10, 1987.

One Speech Writer, Public Affairs to the Secretary. Effective December 18, 1987.

One Director, Office of Public Liaison to the Associate Administrator for Communications. Effective December 22, 1987.

One Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for Human Development Services. Effective December 29, 1987.

Department of Housing and Urban Development

One Special Assistant to the General Deputy Assistant Secretary for Policy Development and Research. Effective December 10, 1987.

One Special Assistant (Indian Programs) to the Special Assistant to the Secretary for Indian and Alaska Native Programs. Effective December 11, 1987.

One Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations. Effective December 11, 1987.

One Executive Assistant to the Regional Administrator for Regional Housing Commissioner. Effective December 11, 1987.

Department of Justice

One Confidential Assistant to the Deputy Assistant Attorney General for Legislative Affairs. Effective December 1, 1987.

One Special Assistant to the Director for National Institute of Justice. Effective December 30, 1987.

Department of Labor

One Special Assistant to the Assistant Secretary for Occupational Safety and Health. Effective December 14, 1987.

One Special Assistant to the Assistant Secretary for Employment and Training. Effective December 14, 1987.

Department of State

One Special Assistant to the Assistant Secretary. Effective December 10, 1987.

Department of Transportation

One Staff Assistant to the Deputy Administrator for Federal Railroad Administration. Effective December 22, 1987.

Department of Treasury

One Travel Assistant to the Deputy Assistant Secretary for Administration. Effective December 4, 1987.

One Confidential Assistant to the Deputy Assistant Secretary for Administration. Effective December 4, 1987.

One Legislative Manager to the Assistant Secretary for Legislative Affairs. Effective December 4, 1987.

One Staff Assistant to the Assistant Secretary for Public Affairs and Public Liaison. Effective December 15, 1987.

One Staff Assistant to the Deputy Assistant Secretary for Department Finance and Management. Effective December 30, 1987.

Action

One Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations. Effective December 11, 1987.

One Special Assistant to the Director. Effective December 24, 1987.

Arms Control and Disarmament Agency

One Staff Assistant to the Director. Effective December 1, 1987.

Environmental Protection Agency

One Deputy Director to the Director for Office of Congressional Liaison. Effective December 18, 1987.

Equal Employment Opportunity Commission

One Special Assistant to the Chairman. Effective December 1, 1987.

One Legislative Affairs Specialist to the Director for Office of Communications and Legislative Affairs. Effective December 4, 1987.

One Director, Communications Staff to the Director for Office of Communications and Legislative Affairs. Effective December 10, 1987.

One Media Contact Specialist to the Director for Office of Communications and Legislative Affairs. Effective December 14, 1987.

Federal Home Loan Bank Board

One Staff Assistant to the Executive Director for Federal Savings and Loan Insurance Corporation. Efffective December 18, 1987.

General Services Administration

One Special Assistant to the Commissioner for Public Buildings Service. Effective December 8, 1987.

Office of Management and Budget

One Secretary to the Associate Director for Economic Policy. Effective December 10, 1987.

One Legislaive Assistant to the Associate Dirctor for Legislative Affairs. Effective December 16, 1987.

One Special Assistant to the Associate Director for Legislative Affairs. Effective December 17, 1987.

Office of Personnel Management

One Staff Assistant to the Dirctor for Office of Executive Administration. Effective December 4, 1987.

One Executive Assistant to the Director for Office of Government Ethics. Effective December 11, 1987.

Small Business Administration

One Special Assistant to the Associate Deputy Administrator. Effective December 1, 1987.

One Deputy Assistant Administrator to the Assistant Administrator for Congressional and Legislative Affairs. Effective December 1, 1987.

One Special Assistant to the Associate Administrator for Procurement Assistance. Effective December 11, 1987.

One Special Assistant to the Administrator. Effective December 24, 1987.

One Confidential Assistant to the Administrator. Effective December 24, 1987.

United States Information Agency

One Editorial Writer to the Director for Office of Policy. Effective December 10, 1987.

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 88–1506 Filed 1–25–88; 8:45 am]

BILLING CODE 6325–01–M

Privacy Act of 1974; Proposed Changes to Two System Notices

AGENCY: Office of Personnel Management.

ACTION: Notice; proposed changes to two systems notices.

SUMMARY: The purpose of this notice is to propose changes to two Office of Personnel Management (Office) Privacy Act System Notices identified as OPM/GOVT–5, Recruiting, Examining, and Placement Records and OPM/GOVT–10, Employee Medical File System Records. The changes result from the passage of the Urgent Relief for the Homeless Supplemental Appropriations Act of 1987, Public Law 100–71.

DATE: The changes will become effective March 28, 1988.

FOR FURTHER INFORMATION CONTACT: John Sanet, Office of Workforce Information, (202) 632–4455.

ADDRESSES: Comments to Assistant Director for Workforce Information, Room 5415, U.S. Office of Personnel Management, Washington, DC 20415.

SUPPLEMENTARY INFORMATION: On June 12, 1987 in the **Federal Register** (52 FR 2564), the Office modified the two systems of records cited above to incorporate records created under Executive Order 12564, "Drug-Free Federal Workplace." The modifications included adding a routine use ("i" for the OPM/GOVT–5 and "d" for the OPM/GOVT–10) that permit, but not require, the disclosure to the Department of Justice of records arising from the drug-testing of applicants and employees under E.O. 12564. Disclosure of these records was limited to the very specific language as stated in the routine use. In addition, routine use "o" for the OPM/GOVT–10 system of records permitted disclosing information about an individual, when that individual is mentally incompetent or under other legal disability, to a person who is responsible for caring for that individual.

Subsequent to the Office's amending the two systems of records, Congress passed Pub. L. 100–71, which further narrows the disclosure of drug-test results and prohibits the disclosure to the Department of Justice as contemplated by the routine uses. Therefore, the Office is proposing to eliminate the routine uses cited in the **Federal Register** for the two systems of records as they pertain to drug-test records created under the Executive Order. The routine uses will remain applicable for other records *not* associated with the drug-test area.

Public Law 100–71 does permit the disclosure of the results of a drug test of a Federal employee if the disclosure would be: (1) To the employee's medical review official (as defined in the Department of Health and Human Service's scientific and technical guidelines referred to in subsection (a)(1)(A)(ii)) of Pub. L. 100–71; (2) to the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating; (3) to any supervisory or management official within the employee's agency having authority to take adverse personnel action against such employee; or (4) pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action. Therefore, the Office is establishing a new routine use "p" for the OPM/GOVT–5 system and a new routine use "u" for the OPM/GOVT–10 system of records that will permit, but not require, the disclosure of drug-test results of Federal employees in accordance with the limitations expressed in Pub. L. 100–71 as reflected in point (4) above. The Office also believes that, in view of Congressional interest and as well as the requirements of Pub. L. 100–71, a "Report on New System" should be made within the meaning of the Privacy Act guidelines established by the Office of Management and Budget. Such a report has been filed. To provide a greater understanding of the process connected with the collection of drug-test results, the Office is publishing the entire texts of the two Government-wide systems of records that will contain such information. This action in amending the two systems of records and publishing the entire systems notices should ensure a more comprehensive understanding of the

Office's safeguarding of drug test records.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, the Office proposes the following changes to the OPM/GOVT–5, system (Recruiting, Examining, and Placement Records) and the OPM/GOVT–10, (Employee Medical File System File Records) as indicated by *italicized text* in those notices reprinted here in their entirety:

OPM/GOVT–5

SYSTEM NAME:

Recruiting, Examination, and Placement Records.

SYSTEM LOCATION:

Associate Director, Career Entry Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, OPM regional and area offices; and personnel or other designated offices of Federal agencies that are authorized to make appointments and to act for the Office by delegated authority.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Persons who have applied to the Office or agencies for Federal employment and current and former Federal employees submitting applications for other positions in the Federal service.

b. Applicants for Federal employment believed or found to be unsuitable for employment on medical grounds.

CATEGORIES OF RECORDS IN THE SYSTEM:

In general, all records in this system contain identifying information including name, date of birth, social security number, and home address. These records pertain to assembled and unassembled examining procedures and contain information on both competitive examinations and to certain noncompetitive actions, such as determinations of time-in-grade restriction waivers, waiver of qualification requirement determinations, and variations in regulatory requirements in individual cases. This system includes such records as—

a. Applications for employment that contain information on work and education, military service, convictions for offenses against the law, and indications of specialized training or receipt of awards or honors. These records may also include copies of correspondence between the applicant and the Office or agency.

b. Results of written exams and indications of how information in the application was rated. These records also contain information on the ranking of an applicant, his or her placement on a list of eligibles, what certificates applicant's names appeared, an agency's request for Office approval of the agency's objection to an eligible's qualifications and the Office's decision in the matter, an agency's request for Office approval for the agency to pass over an eligible and the Office's decision in the matter, and an agency's decision to object/pass over an eligible when the agency has authority to make such decisions under agreement with the Office.

c. Records regarding the Office's final decision on an agency's decision to object/pass over an eligible for suitability or medical reasons or when the objection/pass over decision applies to a compensable preference eligible with 30 percent or more disability. (Does not include a rating of ineligibility for employment because of a confirmed positive test result under Executive Order 12564.)

d. Responses to and results of approved personality or similar tests administered by the Office or agency.

e. Records relating to rating appeals filed with the Office or agency.

f. Registration sheets, control cards, and related documents regarding Federal employees requesting placement assistance in view of pending or realized displacement because of reduction in force, transfer or discontinuance of function, or reorganization.

g. Records concerning non-competitive action cases referred to the Office for decision. These files include such records as waiver of time-in-grade requirements, decisions on superior qualification appointments, temporary appointments outside a register, and employee status determinations. Authority for making decisions on many of these actions has also been delegated to agencies. The records retained by the Office on such actions and copies of such files retained by the agency submitting the request to the Office, along with records that agencies maintain as a result of the Office's delegations of authorities, are considered part of this system of records.

h. Records retained to support Schedule A appointments of severely physically handicapped individuals, retained both by the Office and agencies acting under the Office delegated authorities, are part of this system.

i. Agency applicant supply file systems (when the agency retains applications, resumes, and other related records for hard-to-fill or unique positions, for future consideration), along with any pre-employment vouchers obtained in connection with an agency's processing of an application, are included in this system.

j. Records derived from the Office-developed or agency-developed assessment center exercises.

k. Case files related to medical suitability determinations and appeals.

l. Records related to an applicant's examination for use of illegal drugs under provisions of Executive Order 12564. Such records may be retained by the agency (e.g., evidence of confirmed positive test results and copies of notices to applicants of their being rated ineligible for Federal employment because of the confirmed positive test results) or by a contractor laboratory (e.g., the record of the testing of an applicant, whether negative, or confirmed or unconfirmed positive test result).

Note 1: *Only Routine Use "p" identified for this system of records is applicable to records relating to drug testing under Executive Order 12564. Further, such records shall be disclosed only to a very limited number of officials within the agency, generally only to the agency Medical Review Official (MRO), the administrator of the agency Employee Assistance Program, and any supervisory or management official within the employee's agency having authority to take the adverse personnel action against the employee.*

Note 2: The Office does not intend that records created by agencies in connection with the agency's Merit Promotion Plan program be included in the term "Applicant Supply File" as used within this notice. It is the Office's position that Merit Promotion Plan records are not a system of records within the meaning of the Privacy Act as such records are usually filed by a vacancy announcement number or some other key that is not a unique personal identifier. Agencies may choose to consider such records as within the meaning of a system of records as used in the Privacy Act, but if they do so, they are solely responsible for implementing Privacy Act requirements, including establishment and notice of a system of records pertaining to such records.

Note 3: To the extent that an agency utilizes an automated medium in connection with maintenance of records in this system, the automated versions of these records are considered covered by this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3109, 3301, 3302, 3304, 3306, 3307, 3309, 3313, 3317, 3318, 3319, 3326, 4103, 4723, 5532, and 5533, and Executive Order 9397.

PURPOSE:

The records are used in considering individuals who have applied for positions in the Federal service by making determinations of qualifications including medical qualifications, for positions applied for, and to rate and rank applicants applying for the same or similar positions. They are also used to refer candidates to Federal agencies for employment consideration, including appointment, transfer, reinstatement, reassignment, or promotion. Records derived from the Office-developed or agency-developed assessment center exercises may be used to determine training needs of participants. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None of the Routine Uses apply to records identified in paragraph 1 of the Categories of Records in the System section of this notice. Otherwise, records and information in this system may be used—

a. To refer applicants, including current and former Federal employees to Federal agencies for consideration for employment, transfer, reassignment, reinstatement, or promotion.

b. With the permission of the applicant, to refer applicants to State and local governments, congressional offices, international organizations, and other public offices for employment consideration.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning hiring or retaining an employee, issuing a security clearance, conducting a security or suitability investigation of an individual, classifying positions, letting a contract, or issuing a license, grant, or other benefit.

e. To disclose information to a Federal agency, in response to its request, in connection with hiring or retaining an employee, issuing a security clearance, conducting a security or suitability investigation of an individual, classifying positions, letting a contract, or issuing 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 in the matter.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

g. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

h. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

i. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, when:

1. The agency, or any component thereof; or

2. Any employee of the agency in his or her official capacity; or

3. Any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or

4. The United States, where the agency determines that litigation is likely to affect the agency or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

j. By the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

k. By the agency maintaining the records or by the Office to locate individuals for personnel research or survey response or in producing summary descriptive statistics 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 elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

l. To disclose information to officials of the Merit Systems Protection Board, including its Office of Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions; e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

m. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

n. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

o. To disclose, in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

p. To disclose the results of a drug test of a Federal employee pursuant to an order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes, disk, punched cards, microfiche, cards, list, and forms.

RETRIEVABILITY:

Records are retrieved by the name, date of birth, social security number, and/or identification number assigned to the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area or automated media with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records in this system are retained for varying lengths of time, ranging from a few months to 5 years; e.g., applicant records that are part of medical determination case files or medical suitability appeal files are retained for 3 years from completion of action on the case. Most records are retained for a period of 1 to 2 years. Some records, such as individual applications, become part of the person's permanent official records when hired, while some records (e.g., non-competitive action case files), are retained for 5 years. Some records are destroyed by shredding or burning while magnetic tapes or disks are erased.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Career Entry Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the agency or the Office where application was made or examination was taken. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social security number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a (c)(3) and (d), regarding access to records.

The section of this notice titled "Systems Exempted from Certain Provisions of the Act" indicates the kind of material exempted and the reasons for exempting them from access. Individuals wishing to request access to their non-exempt records should contact the agency or the Office where application was made or examination was taken. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social security number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting access must also comply with the Office's Privacy Act regulations on verification of identity and access to records (5 CFR Part 297).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of this notice titled "Systems Exempted from Certain Provisions of the Act" indicates the kinds of material exempted and the reasons for exempting them from amendment. An individual may contact the agency or the Office where application is filed at any time to update qualifications, education, experience, or other data maintained in the system.

Such regular administrative updating of records should not be requested under the provisions of the Privacy Act. However, individuals wishing to request amendment of other records under the provisions of the Privacy Act should contact the agency or the Office where application was made or examination was taken. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social security number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR Part 297).

Note: In responding to an inquiry or a request for access or amendment, resource specialists may contact the Office's area office that provides examining and rating assistance for help in processing the request.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information the individual supplied, reports from medical personnel on physical qualifications, results of examinations that are made known to applicants, agencies, and Office records, and vouchers supplied by references or other sources that the applicant lists or that are developed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains investigative materials that are used solely to determine the appropriateness of a request for approval of an objection to an eligible's qualifications for Federal civilian employment or vouchers received during the processing of an application. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such investigative material from certain provisions of the Act, to the extent that release of the material to the individual whom the information is about would—

a. Reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or

b. Reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

This system contains testing and examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records.

The specific materials exempted include, but are not limited to, the following:

a. Answer keys.
b. Assessment center exercises.
c. Assessment center exercise reports.
d. Assessor guidance material.
e. Assessment center observation reports.
f. Assessment center summary reports.
g. Other applicant appraisal methods, such as performance tests, work samples and simulations, miniature training and evaluation exercises, structured interviews, and their associated evaluation guides and reports.
h. Item analyses and similar data that contain test keys.
i. Ratings given for validating examinations.

j. Rating schedules, including crediting plans and scoring formulas for other selection procedures.

k. Rating sheets.

l. Test booklets, including the written instructions for their preparation.

m. Test item files.

n. Test answer sheets.

OPM/GOVT-10

SYSTEM NAME:

Employee Medical File System Records.

SYSTEM LOCATION:

a. For current employees, records are located in agency medical, personnel, dispensary, health, safety, or other designated offices within the agency, with another agency providing such services for the employing agency, or with private sector contractors.

b. For former employees, most records will be located in an Employee Medical Folder (EMF) stored in Federal Records Storage Centers operated by the National Archives and Records Administration (NARA). In some cases, agencies may retain for a limited time (e.g., up to 3 years) some records on former employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in this system include:

a. Medical records, forms, and reports completed or obtained when an individual applies for a Federal job and is subsequently employed;

b. Medical records, forms, and reports completed during employment as a condition of employment, either by the employing agency or by another agency, State or local government entity, or a private sector entity under contract to the employing agency;

c. Records resulting from the testing of the employee for use of illegal drugs under Executive Order 12564. Such records may be retained by the agency (e.g., by the agency Medical Review Official) *or by a contractor laboratory. This includes records of negative results, confirmed or unconfirmed positive test results, and lists of who has been tested, who failed to report for testing, and related documents.*

Note.—Records maintained by an agency dispensary are included in the system only when they are the result of a condition of employment or related to an on-the-job occurrence.

d. Agency maintained files containing reports of on-the-job injuries and medical records, forms, and reports generated as a result of the filing of a claim for Workers' Compensation, whether the claim is accepted or not. (The official compensation claim file, physically being maintained by the Department of Labor's Office of Workers' Compensation Program (OWCP) is part of that agency's system of records and not covered by this notice.)

e. All other medical records, forms, and reports created on an employee during his or her period of employment, including records retained on a short-term/temporary basis (i.e., those designated to be retained only while the employee is with that agency) and records designated for long-term retention (i.e., those retained for the employee's duration of Federal Service and for some period of time after).

Note: Records pertaining to employee drug or alcohol abuse counseling or treatment, and those pertaining to other employee counseling programs conducted under Health service Programs established pursuant to 5 U.S.C. chapter 79, are not part of this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 12107 and 12564 and 5 U.S.C. Chapters 11, 31, 33, 43, 61, 63, and 83.

PURPOSES:

Records in this system of records are maintained for a variety of purposes, which include the following:

a. To ensure that records required to be retained on a long-term basis to meet the mandates of law, Executive order, or regulations (e.g., the Department of Labor's Occupational Safety and Health Administration (OSHA) and OWCP regulations), are so maintained.

b. To provide data necessary for proper medical evaluations and diagnoses, to ensure that proper treatment is administered, and to maintain continuity of medical care.

c. To provide an accurate medical history of the total health care and medical treatment received by the individual as well as job and/or hazard exposure documentation and health monitoring in relation to health status and claims of the individual.

d. To enable the planning for further care of the patient.

e. To provide a record of communications among members of the health care team who contribute to the patient's care.

f. To provide a legal discount describing the health care administered and any exposure incident.

g. To provide a method for evaluating quality of health care rendered and job-health-protection including engineering protection provided, protective equipment worn, workplace monitoring, and medical exam monitoring required by OSHA or by good practice.

h. To ensure that all relevant, necessary, accurate, and timely data are available to support any medically-related employment decisions affecting the subject of the records (e.g., in connection with fitness-for-duty and disability retirement decisions).

i. To document claims filed with the decisions reached by OWCP and the individual's possible reemployment rights under statutes governing that program.

j. To document employee's reporting of on-the-job injuries or unhealthy or unsafe working conditions, including the reporting of such conditions to OSHA and actions taken by that agency or by the employing agency.

k. To ensure proper and accurate operation of the agency's employee drug testing program under Executive Order 12564.

Note: *Except for Routine Use u, no other Routine Use for this system of records applies to records included in paragraph c in the Categories of Records in the System section of this notice.* Further, agencies are reminded that Routine Use disclosures are permissive in nature and should be limited to only those records/portions of a record that meet the requirements of the requester.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to the Department of Labor, Veterans Administration, Social Security Administration, or a national, State, or local social security type agency, when necessary to adjudicate a claim (filed by or on behalf of the individual) under a retirement, insurance, or health benefit program.

b. To disclose information to a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable diseases.

c. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or to comply with the issuance of a subpoena.

d. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which

the agency is authorized to appear, when:

1. The agency, or any component thereof; or

2. Any employee of the agency in his or her official capacity; or

3. Any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or

4. The United States, where the agency determines that litigation is likely to affect the agency or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose of which the records were collected.

e. 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.

f. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

g. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

h. To disclose 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.

i. To disclose information to officials of the Merit Systems Protection Board including the Office of Special Counsel, the Federal Labor Relations Authority and its general counsel, the Equal Employment Opportunity Commission, arbitrators, and hearing examiners to the extent necessary to carry out their authorized duties.

j. To disclose information to survey team members from the Joint Commission on Accreditation of Hospitals (JCAH) when requested in connection with an accreditation review, but only to the extent that the information is relevant and necessary to meet JCAH standards.

k. To disclose information to the National Archives and Records Service in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

l. To disclose information to health insurance carriers contracting with the Office of Personnel Management (hereafter referred to as "the Office") to provide a health benefits plan under the Federal Employees Health Benefits Program information necessary to verify eligibility for payment of a claim for health benefits.

m. By the agency maintaining or responsible for generating the records to locate individuals for health research or survey response and in the production of summary descriptive statistics and analytical studies (e.g., epidemiological studies) in support of the function for which the records are collected and maintained. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study might be structured in such a way as to make the data individually identifiable by inference.

n. To disclose information to the Office of Federal Employees Group Life Insurance that is relevant and necessary to adjudicate claims.

o. To disclose information, when an individual to whom a record pertains is mentally incompetent or under other legal disability, to any person who is responsible for the care of the individual, to the extent necessary.

p. To disclose to the agency-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee, in connection with an examination ordered by the agency under:

(1) Medical evaluation (formerly Fitness for Duty) examinations procedures; or

(2) Agency-filed disability retirement procedures.

q. To disclose to a requesting agency, organization, or individual the home address and other information concerning those individuals who it is reasonably believed might have contracted an illness or been exposed to or suffered from a health hazard while employed in the Federal work force.

r. To disclose information to a Federal agency, in response to its request or at the initiation of the agency maintaining the records, in connection with the retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, or the lawful, statutory, administrative, or investigative purpose of the agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

s. To disclose to any Federal, State, or local government agency, in response to its request or at the initiation of the agency maintaining the records, information relevant and necessary to the lawful, statutory, administrative, or investigatory purpose of that agency as it relates to the conduct of job related epidemiological research or the ensurance of compliance with Federal, State, or local government laws on health and safety in the work environment.

t. To disclose to officials of labor organizations recognized under 5 U.S.C. Chapter 71, analyses using exposure or medical records and employee exposure records, in accordance with the records access rules of the Department of Labor's OSHA, and subject to the limitations at 29 CFR 1910.20(e)(2)(iii)(B).

u. To disclose the results of a drug test of a Federal employee pursuant to an order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche, in automated record systems, and on file cards, X-rays, or other medical reports and forms.

RETRIEVABILITY:

Records are retrieved by the employee's name, date of birth, social security number, or any combination of those identifiers.

Safeguards:

Records are stored in locked file cabinets or locked rooms. Automated records are protected by restricted access procedures and audit trails. Access to records is strictly limited to agency or contractor officials with a bona fide need for the records.

Retention and Disposal:

Some records are retained for the duration of employment with a given agency. Other records are retained for the duration of Federal employment, plus 30 years. Records arising in connection with employee drug testing under Executive Order 12564 are generally retained for up to 2 years. Records are destroyed by shredding, burning, or by erasing the disk.

System Manager and Address:

Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, Room 5415, 1900 E Street, NW., Washington, DC 20415.

Notification Procedure:

Individuals wishing to inquire whether this system of records contains record on them should follow the appropriate procedure listed below.

a. *Current employees.* Current employees should contact their employing agency's personnel, dispensary, health, safety, medical, or other designated office responsible for maintaining the records, as identified in the agency's internal issuance covering this system. Individuls must furnish such identifying information as required by the agency for their records to be located to and identified.

b. *Former employees.* Former employees should contact their former agency's personnel, dispensary, health, safety, medical, or other designated office responsible for maintaining the records, as identified in the agency's internal issuance covering this system. Additionally, for access to their EMF, they should submit a request to the Office's regional office nearest their residence. Individuals submitting requests to the Office's regional and area offices must submit the following information for the records to be located and identified:

1. Full name.
2. Date of birth.
3. Social security number.
4. Name and location of agency where last employeed and dates of employment.
5. Signature.

Records Access Procedure:

a. Current employees should contact the appropriate agency office as indicated in the "Notification Procedure" section and furnish such identifying information as required by the agency to locate and identify the records sought.

b. Former employees should contact the appropriate agency office as indicated in the Notification Procedure section and furnish such identifying information as required by the agency to locate and identify the records sought. Former employees may also submit a request to the Office's regional or area office nearest their residence for access to their EMF. When submitting a request to the Office, the individual must furnish the following information to locate and indentify the record sought:

1. Full name.
2. Date of birth.
3. Social security number.
4. Name and location of agency where last employeed and dates of employment.
5. Signature.

c. Individuals requesting access must also comply with the Office's Privacy Act regulations on verification of identity and access to records (5 CFR Part 297).

CONTESTING RECORDS PROCEDURE:

Because medical practitioners often provide differing but equally valid medical judgments and opinions when making medical evaluations of an individual's health status, review of requests from individuals seeking amendment of their medical records, beyond correction and updating of the records, will be limited to consideration of including the differing opinion in the record rather than attempting to determine whether the original opinion is accurate.

Individuals wishing to amend their records should:

a. For a current employee, contact the appropriate agency office identified in the Notification Procedure section and furnish such identifying information as required by the agency to locate and identify the records to be amended.

b. For a former employee, contact the appropriate agency office identified in the Notification Procedure section and furnish such identifying information as required by the agency to locate and identify the record to be amended. Former employees may also submit such a request to amend records in their EMF to the system manager. When submitting a request to the system manager, the individual must furnish the following information to locate and identify the records to be amended:

1. Full name.
2. Date of birth.
3. Social security number.
4. Name and location of agency where last employed and dates of employment.
5. Signature.

c. Individuals seeking amendment of their records must also follow the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR Part 297).

RECORDS SOURCE CATEGORIES:

Records in this system are obtained from:

a. The individual to whom the records pertain.

b. Agency employee health unit staff.

c. Federal and private sector medical practitioners and treatment facilities.

d. Superviors/managers and other agency officials.

e. Other agency records.

[FR Doc. 88-1509 Filed 1-25-88; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25273; File No. SR-DTC-87-9]

Self-Regulatory Organizations; Depository Trust Co.; Order Approving a Proposed Rule Change

On June 2, 1987, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR-DTC-87-09), with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] to authorize a service for changing payment modes on certain securities. On September 15, 1987, DTC filed a description of the Change of Mode of Payment (CMOP) service and related procedures. On October 6, 1987, DTC filed a proposed fee schedule for this service. As discussed in the Notice of Filing of Proposed Rule Change concerning CMOPs the fees for CMOPs are to be the same as the fees for conversions. On October 15, 1987, the Commission published notice of this proposed rule change in the **Federal Register** to solicit comments from the interested persons.[2] No comments were received. As discussed below, this Order approves the proposal.

I. Description

The proposal institutes a new service, called the Change of Mode Payment ("CMOP") Service. DTC states in its filing that CMOP will enable Participants to change, during specific periods, the frequency with which they receive dividend payments on certain investment company and corporate preferred securities. Only certain Unit Investment Trust (UIT) and Variable Mode Preferred (VMP) stock issues will be eligible for the CMOP Service. In accordance with the terms of the security, dividend payments may be made monthly, quarteriy, semi-annually, annually, or on another regular frequency, and investors may change the frequency of such payments. CMOP is designed to centralize and automate the process for effecting such changes. Only certain Unit Investment Trust (UIT) and Variable Mode Preferred (VMP) stock issues will be eligible for the CMOP Service.

[1] 15 U.S.C. 78(b)(1).

[2] Securities Exchange Act Release No. 25002 (October 7, 1987), 52 FR 38292 (October 15, 1987).

In order to use the CMOP Service, a Participant would communicate the CMOP instructions to DTC by automated means through DTC's Participant Terminal System (PTS). Due to provisions in the documents which created the UITs and VMPs, participants may submit CMOP changes only during certain specified time periods. Accordingly, if a participant attempts to make a change outside of the permissible time periods, PTS will reject the transaction and display an error message. Participants receive an additional notification of transactions not completed by comparing the transactions they submitted with the completed transactions reported on their daily activity statement.

In addition to instructing DTC about a VMP change, a participant who wants to make a VMP change must notify the VMP remarketing agent directly of the change two business days before the dividend payment date. Each afternoon DTC will submit that day's CMOP VMP changes to the appropriate VMP remarketing agents. The VMP remarketing agents will have until the close of business to inform DTC of changes that must be reversed because the participant failed to notify it of the change at the appropriate time. If a change must be reversed, or is rejected for another reason, DTC will notify the participant's coordinator by telephone, and send the participant a written notice of the adjustment. After a participant has completed a valid CMOP instruction, DTC will issue the necessary instructions to the appropriate transfer agent to transfer DTC's position from one mode of payment to another, and mark its books accordingly. Because UIT and VMP are FAST issues,[3] DTC will transmit the instructions to the FAST transfer agent via DTC's Computer-to-Computer Facility.

DTC also has filed fees for this service. It will charge the same fees as it currently charges for conversions. For each CMOP instruction DTC will charge two deliver order charges of $0.50 each, (one for deducting the issue which the Participant no longer wishes to hold and one for adding the issue which the Participants wishes to hold) plus a charge based on the number of shares transferred. This charge will be:

From 1 to 400 shares ...	$20 minimum per transaction
401 to 2,000 shares ...	$0.05 per share
Over 2,000 shares	$100 maximum per transaction

II. DTC's Rationale

DTC believes the rule change is consistent with the requirements of the Act because using CMOP to make the desired change will eliminate the need for Participants to withdraw certificates from DTC, exchange them at the transfer agent, and then deposit new certificates. In addition, the proposed rule change would facilitate the timely settlement of these transactions, reduce fails, and decrease financing costs.

III. Discussion

The Commission believes that the proposal is consistent with section 17A of the Act, and in particular, the requirement that depositories safeguard securities which are in its custody or control. The proposed rule change will allow participants to change the mode of payment as their business needs require and provides the benefit of an immobilized securities issue. The CMOPs service will allow DTC to provide more efficient FAST-issue service to participants and to use DTC's FAST-instruction accounting controls. Because many CMOPS-eligible issues will not be available to investors in certified form, DTC has worked with the VMP agent to structure appropriate controls over instructions, including independent verification of the participant's instructions. Moreover, the CMOPS service will reduce the need for cancelling the reissuing UIT certificates each time a Participant wishes to change the frequency with which it receives its dividend payments.

The Commission also believes the proposal is consistent with section 17A's directive to promote the prompt and accurate clearance and settlement of securities. The CMOP service appears to provide an efficient, automated system for processing changes in the mode of payment for UITs and VMPs, which otherwise would need to be processed manually and exposed to the risks of error inherent in manual processing.

The Commission also believes that the fees DTC proposes to charge for its CMOPs service are consistent with section 17A(b)(3)(D) as they provide for the equitable allocation of reasonable dues, fees and other charges among DTC's participants. As stated in the Notice of Filing of Proposed Rule Change,[4] CMOP fees are the same as conversions fees. Because the tasks DTC must perform to provide the CMOP service are similar to the tasks they must perform to provide the conversion service charging participant the same fees appears to be reasonable. In addition, the Commission has received no comments from the public concerning the fees.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, section 17A.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–87–09) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: January 20, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–1494 Filed 1–25–88; 8:45 am]

BILLING CODE 8010–01–M

[3] FAST, which stands for FAST Automated Securities Transfer, provides an expeditous method for transferring certificates. Under the FAST program, DTC leaves certificates with the appropriate transfer agents ("TA") representing the balance of DTC's nominee position in issues handled by those TA's. When FAST issues are transferred, DTC does not need to withdraw the certificates from its vault, submit them to the TA for processing, receive new certificates from the TA, and place them in the vault. Instead, DTC merely notifies the TA of the change to be made; processing occurs more quickly because the FAST certificates are already in the TA's custody.

[4] Securities Exchange Act Release No. 25002 (October 7, 1987), 52 FR 38292 (October 15, 1987), page 1.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

January 20, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

A L Laboratories, Inc.
Class A Common Stock, $.20 Par Value (File No. 7–1085)
Charter Medical Corporation
Class B Common Stock, $.25 Par Value (File No. 7–1086)
Commtron Corporation
Class A Common Stock, $.01 Par Value (File No. 7–1087)
CMI Corp.
Common Stock, $.10 Par Value (File No. 7–1088)
Crown Central Petroleum Corp.
Class A Common Stock, $5.00 Par Value (File No. 7–1089)
Crown Central Petroleum Corp.
Class B Common Stock, $5.00 Par

Value (File No. 7–1090)
Cohu Inc.
Common Stock, $1.00 Par Value (File No. 7–1091)
Crowley, Milner & Co.
Common Stock, $1.00 Par Value (File No. 7–1092)
Connelly Containers Inc.
Common Stock, $.50 Par Value (File No. 7–1093)
Copley Properties, Inc.
Common Stock, $1.00 Par Value (File No. 7–1094)
Courtaulds, PLC
Regular Stock American Depositray Shares, P 25 Par Value (File No. 7–1095)
Colorado Prime
Common Stock, $.01 Par Value (File No. 7–1096)
Consolidated Energy Partners L.P.
Units of Limited Partnership Interest, No Par Value (File No. 7–1097)
Conquest Exploration Company
Units (File No. 7–1098)
Care Enterprises
Class A Common Stock, No Par Value (File No. 7–1099)
Care Enterprises
Class B Common Convertible, No Par Value (File No. 7–2000)
Coast R.V., Inc.
Common Stock, No Par Value (File No. 7–2001)
Crown Crafts, Inc.
Common Stock, $1.00 Par Value (File No. 7–2002)
CSS Industries, Inc.
Common Stock, $.10 Par Value (File No. 7–2003)
Cubic Corporation
Common Stock, No Par Value (File No. 7–2004)
Continential Materials Corp.
Common Stock, $.50 Par Value (File No. 7–2005)
Custom Energy Service Inc.
Common Stock, $.01 Par Value (File No. 7–2006)
Castle Convertible Fund Inc.
Common Stock, $.01 Par Value (File No. 7–2007)
Chicago Rivet & Machine Co.
Common Stock, $2.00 Par Value (File No. 7–2008)
Canadian Occidental Petroleum Ltd.
Common Stock, No Par Value (File No. 7–2009)
Conston Corp.
Class A Common Stock, $.12 Par Value (File No. 7–2010)
Carmel Container Systems Limited
Ordinary Shares, NIS 1 Par Value (File No. 7–2011)
Barry (R.G.) Corp.
Common Stock, $1.00 Par Value (File No. 7–2012)
Ark Restaurants Inc.
Common Stock, $.01 Par Value (File No. 7–2013)
Audiovox Corporation
Class A Common Stock, $.10 Par Value (File No. 7–2014)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1988, written data, views and arguments concening the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–1490 Filed 1–25–88; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

January 20, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Angell Real Estate Company, Inc.
Common Stock, $.01 Par Value (File No. 7–1077)
Catalyst Energy Corporation (Louisiana)
Common Stock, $.10 Par Value (File No. 7–1078)
Times Mirror Company
Common Stock, No Par Value (File No. 7–1079)
Universal Corporation
Common Stock, Par Value (File No. 7–1080)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–1491 Filed 1–25–88; 8:45 am]

BILLING CODE 8010–01M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

January 20, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Environmental Treatment & Technologies Corp.
Common Stock, $0.10 Par Value (File No. 7–2016)
IBP, Inc.
Common Stock, $0.05 Par Value (File No. 7–2017)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-1492 Filed 1-25-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

January 20, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Acton Corporation (New)

Common Stock, $0.33⅓ Par Value (File No. 7-1081)

Champion Enterprises, Inc.

Common Stock, $1.00 Par Value (File No. 7-1082)

Cyclops Industries, Inc.

Common Stock, $1.00 Par Value (File No. 7-1083)

Tubos de Acero de Mexico, S.A.

Common Stock, No Par Value (File No. 7-1084)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-1493 Filed 1-25-88; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application To Withdraw From Listing and Registration; BRT Realty Trust (Shares of Beneficial Interest, $3.00 Par Value) File No. 1-7172

January 20, 1988.

BRT Realty Trust ("Company") has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's beneficial shares are also listed on the New York Stock Exchange ("NYSE").

The reasons alleged in the application for withdrawing these beneficial shares from listing and registration include the following:

The Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its beneficial shares on the NYSE and Amex. The Company does not see any particular advantage in the dual trading of its beneficial shares and believes that dual listing would fragment the market for its beneficial shares.

Any interested person may, on or before February 9, 1988, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-1495 Filed 1-25-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1046]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 655 (44 FR 17846), March 23, 1979, the Department is submitting its June-December 1987 list of U.S. accredited Delegations which included private sector representatives.

Publication of this list is required by Article III (c) 5 of the guidelines published in the **Federal Register** on March 23, 1979.

Date: January 19, 1988.

Frank R. Provyn,

Director, Office of International Conference Programs.

United States Delegation to the International Telecommunication Union (ITU) International Telegraph and Telephone Consultative Committee (CCITT), Hamburg, Germany, June 29-July 17, 1987

Representative

Gary Fereno, Office of Technical Standards and Development, Bureau of International Communications and Information Policy, Department of State

Advisers

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Ivor N. Knight, COMSAT, Clarksburg, Maryland

Demosthenes J. Kostas, GTE Service Corporation, Stamford, Connecticut

Anthony M. Rutkowski, Research Associate, Massachusetts Institute of Technology, Cambridge, Massachusetts

Marshall G. Schachtman, Bell Communications Research, Inc. Red Bank, New Jersey

United States Delegation to the 33rd Session of the Subcommittee on Radiocommunications International Maritime Organization (IMO), London, July 13–17, 1987

Representative

Dana W. Starkweather, Captain, Chief, Telecommunications Systems Division, United States Coast Guard, Department of Transportation

Alternate Representative

Joseph D. Hersey, Jr., Chief, Marine Radio Policy Branch, United States Coast Guard, Department of Transportation

Advisers

William Luther, Field Operation Bureau, Federal Communications Commission

Robert C. McIntyre, Engineer, Private Radio Bureau, Federal Communications Commission

Richard L. Swanson, Office of International Affairs, Department of Commerce

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Don Derryberry, Exxon Company, Houston, Texas

John Fuechsel, Maritime Services, Comsat Space Communications Division, Clarksburg, Maryland

Ronald J. Lepkowski, Consultant, Geostar Corporation, Washington, DC

United States Delegation to the Steel Committee Working Party Organization for Economic Cooperation and Development (OECD), Paris, July 22–23, 1987

Representative

Ralph F. Thompson, Jr., Director, Iron and Steel Division, Office of Basic Industries, Department of Commerce

Adviser

Appropriate USOECD, Mission Officer, Paris

Private Sector Adviser

John J. Sheenhan, Assistant to the President and Director for Legislative Affairs, United Steel Workers of America, Washington, DC

United States Delegation to the Sixth Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Ottawa, July 12–24, 1987

Representative

Ronald E. Lambertson, Assistant Director for Fish and Wildlife Enhancement, United States Fish and Wildlife Service, Department of the Interior

Alternative Representative

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Robert P. Davison, Staff Member, Committee on Environment and Public Works, United States Senate

Gina DeFerrari, Staff Member, Committee on Merchant Marine and Fisheries, United States House of Representatives

Thomas O. Melius, Staff Member, Committee on Merchant Marine and Fisheries, United States House of Representatives

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Nancy Foster, Director, Office of Protected Species, National Marine Fisheries Service, Department of Commerce

Richard Jachowski, Acting Chief, Federal Wildlife Permit Office, United States Fish and Wildlife Service, Department of the Interior

Arthur Lazarowitz, Regulatory Staff Specialist, Office of CITES Management Authority, United States Fish and Wildlife Service, Department of the Interior

Bruce MacBryde, Staff Botanist, Office of the CITES Scientific Authority, United States Fish and Wildlife Service, Department of Interior

Edward McKeon, International Wildlife Officer, Office of Ecology and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Dick Mitchell, Staff Biologist, Office of the CITES Scientific Authority, United States Fish and Wildlife Service, Department of the Interior

Don Thompson, Staff Officer, Field Operations Support Staff, Animal and Plant Health Inspection Service, Department of Agriculture

Private Sector Adviser

William S. Huey, International Association of Fish and Wildlife Agencies, Washington, DC

United States Delegation to the Organization of American States/Inter-American Telecommunications Commission (OAS/CITEL) Inter-American Telecommunications Fifth Plenipotentiary Conference, Lima, Peru, August 10–14, 1987

Representative

Wiliam H. Jahn, Deputy Director, Office of International Radio Communications, Bureau of International Communications and Information Policy Department of State

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Wilson La Follette, Assistant Chief (International), Policy and Rules Division, Mass Media Bureau, Federal Communications Commission

William Moran, National Telecommunications and Information Administration, Department of Commerce

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United States Delegation to the 27th Session of the Group of Experts on Explosives UN Economic and Social Council (ECOSOC), Geneva, August 17–21, 1987

Representative

Charles W. Schultz, Chief, Sciences Branch, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of Transportation

Alternate Representative

Charles H. Ke, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of Transportation,

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Raymond B. Sawyer, Explosives Safety Board, Department of Defense

Richard W. Watson, Pittsburgh Explosives Laboratory, Bureau of Mines, Department of the Interior, Pittsburgh, Pennsylvania

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Clyde W. Eilo, Institute of Makers of Explosives, New York, New York

A.B. Opperman, Institute of Makers of Explosives, New York, New York

United States Delegation to the International Telecommunication Union (ITU) International Telegraph and Telephone Consultative Committee (CCITT) Study Group XI (ISDN and Telephone Network Switching and Signaling) Geneva, Switzerland, August 17–September 4, 1987

Representative

Otto J. Gusella, Exchange Carriers Standards Association, Parsippany, New Jersey

Alternate Representative

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Yi-Shang Shen, MCI Telecommunications, McLean, Virginia

Michael E. Varrassi, Federal Express, Memphis, Tennessee

United States Delegation to the Group of Rapporteurs on Pollution and Energy 16th Session Economic Commission for Europe (ECE), Geneva, August 31—September 2, 1987

Representative

Merrill Korth, Senior Technical Advisor, Office of Mobile Sources, Environmental Protection Agency, Ann Arbor, Michigan

Private Sector Advisers

Louis Broering, Engine Manufacturers Association, Chicago, Illinois

Harry Weaver, Motor Vehicle Manufacturers Association, Detroit, Michigan

United States Delegation to the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Services Geneva, Switzerland, September 14–October 16, 1987

Representative

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Alternate Representatives

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Jerome Freibaum, National Aeronautics and Space Administration

Tomas E. Gergely, Electromagnetic Spectrum Manager, National Science Foundation

John Grimes, Director, National Security Communications, National Security Council, The White House

Wendell Harris, Common Carrier Bureau, Federal Communications Commission

Earl J. Holliman, Army Spectrum Manager, Office of the Assistant Chief of Staff for Information Management, Spectrum Management Office, Department of Defense

Joseph Hersey, United States Coast Guard, Department of Transportation

Henry W. Holsopple, Navy Electromagnetic Spectrum Center, United States Navy, Department of Defense

Edward Jacobs, Special Assistant to the Chairman, Federal Communications Commission

William Luther, Field Operations Bureau, Federal Communications Commission

Gerald J. Markey, Manager, Spectrum Engineering Division, Federal Aviation Administration, Department of Transportation

Robert C. McIntyre, Private Radio Bureau, Federal Communications Commission

Harry Montgomery, United States Mission, Geneva, Switzerland

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Lawrence Palmer, National Telecommunications and Information Administration, Department of Commerce

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Larry Reed, Private Radio Bureau, Federal Communications Commission

Laird Robertson, Economic, Business and Communications Affairs, Office of the Legal Adviser, Department of State

Philip Sheldon, United States Coast Guard, Department of Transportation

Richard E. Shrum, Director, Office of International Radio Communications, Bureau of International Communications and Information Policy, Department of State

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Richard Gould, Telecommunications Systems, Washington, DC

Kris E. Hutchinson, Aeronautical Radio, Incorporated, Annapolis, Maryland

Jan King, Skylink Corporation, Boulder, Colorado

Ronald Lepkowski, GEOSTAR, Washington, DC

Edward Reinhart, Communications Satellite Corporation, Clarksburg, Maryland

United States Delegation to the Committee on Housing, Building, and Planning Economic Commission for Europe (ECE) Geneva, September 15–18, 1987

Representative

The Honorable Theodore R. Britton, Jr., Assistant to the Secretary for International Affairs, Department of Housing and Urban Development

Private Sector Advisers

Bruce S. Hardy, Area Housing Manager, Housing Authority of the County of Cook, Chicago Heights, Illinois

Angus T. Olson, Executive Director, Alexandria Redevelopment and Housing Authority, Alexandria, Virginia

Carolyn G. Olsen, Lewis and Silverman, Vienna, Virginia

Mary E. Paumen, Urban Planner, Anthony J. Dunleavy Associates, Inc., Upper Darby, Pennsylvania

United States Delegation to the Council and Executive Board Session International Coffee Organization (ICO), London, September 20–October 1, 1987

Representative

Jon Rosenbaum, Assistant U.S. Trade Representative, Office of the U.S. Trade Representative, Executive Office of the President

Alternative Representatives

Carl Cundiff, Director, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Ralph F. Ives, III, International Economist, Primary Commodities Division, Department of Commerce

Advisers

Milton Anderson, International Economist, Department of Commerce

Martin J. Bailey, Economic Advisor to the Under Secretary for Economic Affairs, Department of State

James Burkart, U.S. Embassy, London

Bruce McMullen, U.S. Embassy, London

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John M. Bederka, Woodhouse, Drake & Carey Trading Inc., New York, New York

George E. Boecklin, National Coffee Association, New York, New York

David A. Brown, Maxwell House Corporation, New York, New York

John C.K. Buckley, Nestle Food Corporation, White Plains, New York

Kenneth R. Dunnivant, The Folger Coffee Company, Cincinnati, Ohio

John Heuman, Dine-Mor Foods, Inc., Fenton, Missouri

Howard C. Katz, J. Aron & Company, New York, New York

Andrew A. Scholtz, ACLI Coffee, Division of Cargill, Inc., New York, New York

John Sutherland, Continental Coffee Products Company, Division of Stanley Continental, Inc., Chicago, Illinois

H. Grady Tiller, Foods Division, The Coca-Cola Company, Houston, Texas

Dean Wood, National Coffee Services Association, Vienna, Virginia

United States Delegation to the Working Party on Facilitation of International Trade Procedures, Economic Commssion for Europe (ECE), Geneva, September 21–25, 1987

Representative

Bruce R. Butterworth, Chief, Trade, Facilitation and Technical Issues Division, Office of International Transportation and Trade, Department of Transportation

Advisers

William H. Kenworthey, Jr., Data Systems Manager, Office of the Deputy Assistant Secretary of Defense for Management Systems, Department of Defense

James H. Hatter, Chief, External Interface and Trade Programs Branch, Office of Data Systems, United States Customs Service

Alice Rigdon, Customs Attache, U.S. Embassy, Brussels

Private Sector Advisers

Michael W. Gerus, Standards Coordinator, Automotive Industry Action Group, Southfield, Michigan

Eugene A. Hemley, Executive Director, National Council on International Trade Documentation, New York, New York

Dennis McGinnis, Corporate Project Manager, North American Philips Corporation, New York, New York

Daniel C. Walk, Director of Information Systems, Elkem Metals Company, Pittsburgh, Pennsylvania

Thomas Warner, Senior Business Consultant, McDonnell Douglas EDI Systems Co., St. Louis, Missouri

United States Delegation to the International Civil Aviation Organization (ICAO) 11th Meeting of the Dangerous Goods Panel, Montreal, Quebec, Canada, September 21–October 2, 1987

Representative

Elaine Economides, International Standards Coordinator, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of Transportation

Alternate Representative

Walter G. Greiner, Hazards Materials Program Manager, Office of Civil Aviation Security, Federal Aviation Administration, Department of Transportation

Private Sector Adviser

Samuel S. Elkind, Manager, Cargo Services, Secretary, Restricted Articles Board, Air Transport Association of America, Washington, DC

United States Delegation to the World Tourism Organization (WTO) Seventh Session of the General Assembly, Madrid, Spain, September 22–October 1, 1987

Representative

The Honorable Donna Tuttle, Under Secretary of Commerce for Travel and Tourism, Department of Commerce

Alternate Representatives

Adrian Basora, Deputy Chief of Mission, American Embassy, Madrid, Spain

Robert Bentley, Staff Director for Policy, Office of the Ambassador-at-Large for Counterterrorism, Department of State

Clark Crook-Castan, Alternate Permanent Representative of the United States to the World Tourism Organization, American Embassy, Madrid, Spain

Jean O'Brien, United States Travel and Tourism Administration, Department of Commerce

Adviser

J. Anthony Allitto, Office of Technical Specialized Agencies, Bureau of International Organization Affairs, Department of State

Private Sector Adviser

Chuck Gee, Dean, School of Travel Industry Management, University of Hawaii, Honolulu, Hawaii

United States Delegation to the International Rubber Study Group (IRSG), Hamburg, September 28–October 2, 1987

Representative

Frederic W. Siesseger, Director International Commodities Division, Department of Commerce

Alternate Representative

Jeffrey R. Cunningham, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

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Thomas E. Cole, Vice President, Rubber Manufacturers Association, Washington, DC

James F. Hegarty, Firestone International Technical Center, Rome, Italy

Warren Heilbron, Alan L. Grant Rubber Division, Imperial Commodities Corporation, New York, New York

Frank J. Raniolo, President, Alcan Rubber & Chemical Company, New York, New York

Thomas F. Will, Director, Management Information, The Goodyear Tire & Rubber Company, Akron, Ohio

United States Delegation to the International Council for the Exploration of the Sea (ICES) 75th Statutory Meeting, Santander, Spain, October 1–9, 1987

Representatives

Joseph W. Angelovic, Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service, Department of Commerce

Brian Rothschild, Chesapeake Biological Laboratory, University of Maryland, Solomons, Maryland

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Vaughn C. Anthony, Chief, Utilization and Conservation, Northeast Fisheries Center, Woods Hole Laboratory, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Woods Hole, Massachusetts

Richard C. Hennemuth, Chief, Research Planning and Coordination, Woods Hole Laboratory, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Woods Hole, Massachusetts.

Robert Murchelano, Chief, Environmental Process Division, Northeast Fisheries Center, Woods Hole Laboratory, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Woods Hole, Massachusetts

John Pearce, Deputy Director, Northeast Fisheries Center, Woods Hole Laboratory, National Marine Fisheries Services, National Oceanic and Atmospheric Administration, Department of Commerce, Woods Hole, Massachusetts.

Michael Reeve, Section Head, Ocean Sciences Research, National Science Foundation

Kenneth Sherman, Director, Narragansett Laboratory, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Narragansett, Rhode Island

Michael Sissenwine, Chief, Fisheries Econlogy Division, Woods Hole Laboratory, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Woods Hole, Massachusetts

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Thomas Osborn, Chesapeake Bay Institute, Johns Hopkins University, Baltimore, Maryland

Charles H. Peterson, Institute of Marine Science, University of North Carolina, Chapel Hill, Morehead City, North Carolina

Carlton Ray, Department of Environmental Sciences, University of Virginia, Charlottesville, Virginia,

United States Delegation to the International Telecommunication Satellite Organization (INTELSAT) Twelfth Assembly of Parties, Buenos Aires, Argentina, October 5–9, 1987

Representative

The Honorable Diana Lady Dougan, United States Coordinator and Director, International Communications and Information Policy, Department of State

Alternate Representative

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James Ball, Deputy Chief, International Affairs, Federal Communications Commission

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Joel Pearlman, Attorney, International Operations, Federal Communications Commission

Private Sector Advisers

Bruce Crockett, President, World Systems Division, Communications Satellite Corporation, Clarksburg, Maryland

Maury Mechanick, INTELSAT Affairs Director, Communications Satellite Corporation, Clarksburg, Maryland

United States Delegation to the Fourteenth Antarctic Treaty Consultative Meeting, Rio de Janeiro, Brazil, October 5–16, 1987

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

Raymond Arnaudo, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Robert Hofman, Scientific Program Director, Marine Mammal Commission

Brad Laubach, Minerals Management Service, Department of the Interior

Thomas Laughlin, National Oceanic and Atmospheric Administration, Department of Commerce

Eugene M. Pinkelmann, Office of the Legal Adviser, Department of State

Darold Silkwood, Chief, Defense Program Analysis Division, U.S. Arms Control and Disarmament Agency

Jack Talmadge, Division of Polar Programs, National Science Foundation

Norman A. Wulf, Deputy Assistant Director, Bureau of Nuclear Weapons and Control, U.S. Arms Control and Disarmament Agency

Private Sector Adviser

Lee Kimball, International Institute for Environment and Development, Washington, DC

United States Delegation to the International Telecommunication Union (ITU) International Telegraph and Telephone Consultative Committee (CCITT) Study Group I (Working Parties I/1, I/2, I/3, I/4 and Question 1/I Rapporteur Group), Geneva, Switzerland, October 5–16, 1987

Representative

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Joseph T. Morris, Western Union Telegraph Company, Mahwah, New Jersey

Herman R. Silbiger, AT&T—Bell Laboratories, Holmdel, New Jersey

United States Delegation to the 21st Session of the Administrative and Legal Committee of the Union for the Protection of New Plant Varieties (UPOV), Geneva, October 8–9, 1987

Representative

Stanley D. Schlosser, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce

Private Sector Advisers

Benjamin Bolusky, Director, Office of Government Affairs, National Association of Nurserymen, Washington, DC

William Schapaugh, Executive Director, American Seed Trade Association, Washington, DC

United States Delegation to the International Institute for Cotton (IIC), Brussels, October 10, 1987

Representative

William L. Davis, Assistant Administrator, Commodity and Marketing Programs, Foreign Agricultural Service, Department of Agriculture

Alternate Representative

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Roger S. Lowen, Agricultural Counselor, American Embassy, Brussels

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Donald B. Conlin, Chairman, Board of Managers, New York, Cotton Exchange, New York, New York

George C. Cortright, Adviser to the Board, National Cotton Council of America, Rolling Fork, Mississippi

M. Dean Ethridge, Director, Economic Services Division, National Cotton Council of America, Cordova, Tennessee

Kenneth Adrian Hunnings, Director, Foreign Operations, National Cotton Council of America, Washington, DC

William Coleman Tharp, American Cotton Shippers Association, Washington, DC

Charles Aven Whittington, President, National Cotton Council of America, Memphis, Tennessee

United States Delegation to the International Cotton Advisory Committee (ICAC), Brussels, October 12–16, 1987

Representative

William L. Davis, Assistant Administrator, Commodity and Marketing Programs, Foreign Agricultural Service, Department of Agriculture

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Kenneth Adrian Hunnings, Director, Foreign Operations, National Cotton Council of America, Washington, DC

William Coleman Tharp, American Cotton Shippers Association, Washington, DC

Charles Aven Whittington, President, National Cotton Council of America, Memphis, Tennessee

United States Delegation to the 58th Session of the Legal Committee International Maritime Organization (IMO) London, October 12–16, 1987

Representative

Frederick F. Burgess, Jr., Captain, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Alternate Representatives

Robert Blumberg, Deputy Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Frederick M. Rosa, Jr., Lieutenant Commander, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Adviser

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Edward C. Kalaidjian, Maritime Law Association, New York, New York

Sam V. Tranchina, Vice President, Great American Insurance Company, New York, New York

United States Delegation to the Committee for the Coordination of Offshore Prospecting for Mineral Resources in the South Pacific (CCOP/SOPAC) 16th Session Economic and Social Commission for Asia and the Pacific (ESCAP), Lae, Papua New Guinea, October 12–23, 1987

Representative

William A. Erb, Director, Office of Marine Science and Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

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United States Delegation to the 5th Session of the Assembly of the International Maritime Satellite Organization (INMARSAT), London, October 13–15, 1987

Representative

Randolph Earnest, Director, Office of Regulatory and Treaty Affairs, Bureau of International Communications and Information Policy, Department of State.

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John Barcas, United States Embassy, London

Hilary Cunningham, Office of Regulatory and Treaty Affairs, Bureau of International Communications and Information Policy, Department of State

James Earl, Office of the Legal Adviser, Department of State

Robert Frieden, National Telecommunications and Information Administration, Department of Commerce

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Larry Martinez, National Telecommunications and Information Administration, Department of Commerce

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John Hannon, Deputy Director, INMARSAT Relations, Communications Satellite Corporation, Washington, DC.

United States Delegation to the International Natural Rubber Agreement Council, United National Conference on Trade and Development (UNCTAD), Kuala Lumpur, October 13–22, 1987

Representative

Frederic Siesseger, Director, Primary Commodities Division, Department of Commerce.

Alternate Representative

Jeffrey Cunningham, Industrial & Strategic Materials Division, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State.

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Harold Ross Miller, Managing Director, Goodrich Company Private Ltd., Singapore

Charles B. Pettit, Managing Director, Firestone Singapore Private Ltd., Singapore.

United States Delegation to the International Telecommunication Union (ITU) International Telegraph and Telephone Consultative Committee (CCITT) Study Group III: Working Parties III/2, III/5, III/6, and III/8, Ottawa, Canada, October 13–23, 1987

Representative

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Alternate Representative

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Beverly Sincavage, Senior Product Manager, Telenet Communications Corporation, Reston, Virginia

Edward Slack, COMSAT Maritime Services, Clarksburg, Maryland

Deborah Tumey, CITIBANK, N.A., New York, New York

United States Delegation to the 14th Session North American Forestry Commission Food and Agriculture Organization (FAO), Sault Sainte Marie, Ontario, Canada, October 14–17, 1987

Representative

F. Dale Robertson, Chief, U.S. Forest Service, Department of Agriculture

Alternate Representatives

Henry Noldan, Chief of Forestry, Bureau of Land Management, Department of the Interior

John H. Ohman, Deputy Chief for Research, U.S. Forest Service Department of Agriculture

Adviser

Samuel H. Kunkle, International Forestry Staff, U.S. Forest Service, Department of Agriculture

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Henry Webster, State Forester, Michigan Department of Natural Resources, Lansing, Michigan

United States Delegation to the Steel Committee Working Party Organization for Economic Cooperation and Development (OECD), Paris, October 20[3]21, 1987

Representative

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Advisers

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Angus T. Simmons, Special Trade Activities Division, Office of International Trade, Bureau of Economic and Business Affiars, Department of State

Appropriate USOECD, Mission Officer, Paris

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Clifford D. Nelsen, President, Nelsen Steel Company, Franklin Park, Illinois

John J. Sheehan, Assistant to the President and Director of Legislative Affairs, United Steel Workers of America, Washington, DC

United States Delegation to the 4th Intergovernmental Meeting on the Action Plan for the Caribbean Environment Program United Nations Environmental Program (UNEP), Guandeloupe, October 26–28, 1987

Representative

William A. Nitze, Deputy Assistant Secretary for, Environment, Health and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affiars, Department of State

Alternate Representative

Scott A. Hajost, Office of the Legal Adviser, Department of State

Advisers

Robert Baker, Regional Director, National Park Service, Department of the Interior

Robert Blumberg, Deputy Director, Office of Ocean Law and Policy, Bureau of Oceans and International Environmental and Scientific Affiars, Department of State

Eileen Cooney, Deputy General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce

Pedro A. Gelabert, Director, Caribbean Field Office, Environmental Protection Agency

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Arthur Paterson, Office of International Affairs, National Oceanic and Atmospheric Administration, Department of Commerce

David Pascoe, Commander, Environmental Coordination Branch, Marine Environmental Response Division, United States Coast Guard, Department of Transportation

Rebecca S. Rootes, Office of International Affairs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Advisers

Thomas Henderson, General Land Office, State of Texas, Austin, Texas

Andrew Palmer, President, Coast Alliance, Tacoma Park, Maryland

United States Delegation to the Sixth Session of the Commission for the Conservation of Antarctic Marine Living Resources and the Scientific Committee, Hobart, Tasmania, October 26–November 6, 1987

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

Raymond Arnaudo, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Polly Penhale, Manager, Biology and Medicine Program, Division of Polar Programs, National Science Foundation

Robin Tuttle, Office of International Fisheries Affairs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Adviser

Bruce S. Manheim, Environmental Defense Fund, Washington, DC

United States Delegation to the 34th Annual Meeting of the International North Pacific Fisheries Commission (INPFC), Vancouver, November 2–6, 1987

Commissioners

The Honorable (Head of Delegation), Clement V. Tillion, Fisherman, Halibut Cove, Alaska

The Honorable Dayton L. Alverson, Managing Partner, Natural Resources Consultants, Inc., Seattle, Washington

The Honorable Richard B. Lauber, Vice President and Alaska Manager, Pacific Seafood Processors Association, Juneau, Alaska

The Honorable Robert W. McVey, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Adviser

Robert J. Ford, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Private Sector Advisers

George J. Easley, Pacific Fisheries Council, Portland, Oregon

William S. Gilbert, Washington Fish Co., Seattle, Washington

Charles H. Meachum, Sr., Pacific Rim Consultants, Anchorage, Alaska

Jane Arliss Sturgulewski, Senator, Alaska State Legislature, Anchorage, Alaska

Fred Zharoff, Senator, Alaska State Legislature, Kodiak, Alaska

United States Delegation to the First Session of the Joint World Meteorological Organization (WMO)/ Intergovernmental Oceanographic Commission (IOC), Intergovernmental Board on the Tropical Ocean and Global Atmosphere (TOGA), UN Educational, Scientific and Cultural Organization (UNESCO), Geneva, November 2–6, 1987

Representative

J. Michael Hall, Director, Office of Climatic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce

Alternate Representative

Richard Lambert, Associate Program Director, National Science Foundation

Adviser

Kenneth Mooney, Assistant Program Director, Tropical Ocean and Global Atmosphere, Office of Climatic and

Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Adviser

John Young, Department of Atmospheric Physics, Oxford University, Oxford, England

United States Delegation to the International Telecommunication Union (ITU), International Radio Consultative Committee/International Telegraph and Telephone Consultative Committee (CCIR/CCITT), Joint Study Group for Television and Sound Transmission (CMTT), Geneva, Switzerland, November 2–13, 1987

Representatives

David Carson, Bell Communications Research, Morristown, New Jersey

Warren G. Richards, Deputy Director, Office of International Radio Communications, Bureau of International Communications and Information Policy, Department of State

Advisers

John Reiser, Mass Media Bureau, Federal Communications Commission

John W. Kiebler, Head, Technical Consultation Services, National Aeronautics and Space Administration

Private Sector Advisers

Ronald J. Gnidziejko, Director, On-Air Operations, NBC Television Network, New York, New York

George Knowlson, Jr., AT&T Communications, Bedminster, New Jersey

John J. McGrath, GE Americon, New York, New York

United States Delegation to the International Telecommunication Union (ITU), International Radio Consultative Committee (CCIR), Interim Study Group 11, Geneva, Switzerland, November 2–18, 1987

Representatives

John Reiser, Mass Media Bureau, Federal Communications Commission

Warren G. Richards, Deputy Director, Office of International Radio Communications, Bureau of International Communications and Information Policy, Department of State

Private Sector Advisers

Corey P. Carbonara, Telecommunications Division, Baylor University, Waco, Texas

LeRoy E. DeMarsh, Eastman Kodak Co., Rochester, New York

Bernard Dickens, CBS, Inc., New York, New York

Richard R. Green, Public Broadcasting Service, Alexandria, Virginia

E. William Henry, Ginsberg, Feldman and Bress, Washington, DC

George Hrycenko, Chief Scientist, Hughes Aircraft Co., Los Angeles, California

Robert S. Hopkins, Executive Director, Advance Television Systems Committee, Washington, DC

Donald H. Jansky, President, Jansky Telecommunications, Inc., Washington, DC

Bronwen L. Jones, Consultant, Norwalk, Connecticut

George F. Knights, CBS, Inc., New York, New York

Martin H. Meaney, Director, Allocations Engineering, National Broadcasting Co., Inc., New York, New York

Kerns H. Powers, Staff Vice President, David Sarnoff Research Center, Inc., RCA Corp., Princeton, New Jersey

United States Delegation to the International Telecommunication Union (ITU) International Radio Consultative Committee (CCIR) Interim Study Group 10, Geneva, Switzerland, November 3–17, 1987

Representatives

John Reiser, Mass Media Bureau, Federal Communications Commission

Warren G. Richards, Deputy Director, Office of International Radio Communications, Bureau of International Communications, and Information Policy, Department of State

Advisers

Dexter Anderson, Voice of America, United States Information Agency

William A. Luther, Field Operations Bureau, Federal Communications Commission

Steven Selwyn, Mass Media Bureau, Federal Communications Commission

Private Sector Advisers

Donald Jansky, President, Jansky Telecommunications, Inc., Washington, DC

Ralph H. Justus, Staff Engineer, Department of Science and Technology, National Association of Broadcasters, Washington, DC

Martin H. Meaney, Director, Allocations Engineering, National Broadcasting Company, Inc., New York, New York

Emil L. Torick, Broadcast Technology Partners, Greenwich, Connecticut

United States Delegation to the International Telecommunication Union (ITU) International Radio Consultative Committee (CCIR) Joint Interim Study Group 10–11/S (Broadcasting Satellites), Geneva, Switzerland, November 3–17, 1987

Representatives

Edward E. Reinhart, Director, Techno-Regulatory Matters, Communications Satellite Corporation, Washington, DC

Warren G. Richards, Deputy Director, Office of International Radio Communications, Bureau of International Communications and Information Policy, Department of State

Advisers

Dexter Anderson, Voice of America, United States Information Agency

John W. Kiebler, Head, Technical Consultation Services, National Aeronautics and Space Administration

Steven Selwyn, Mass Media Bureau, Federal Communications Commission

Private Sector Advisers

Richard G. Gould, President, Telecommunications Systems, Washington, DC

George Hrycenko, Chief Scientist, Hughes Aircraft Company, Los Angeles, California

John E. Miller, Senior Principal Scientist, ORI, Inc., Landover, Maryland

United States Delegation to the 14th Extraordinary Session of the Council, 15th Session of the Assembly and the 59th Session of the Council of the International Maritime Organization (IMO), London, November 6–20, 1987

Fourteenth Extraordinary Session (November 6–7, 1987)

Representatives

J. Anthony Allitto, Office of Technical Specialized Agencies, Bureau of International Organization Affairs, Department of State

Alternate Representatives

G.T. Morgan, Captain, Chief, International Affairs Staff, United States Coast Guard, Department of Transportation

Gerard P. Yoest, Deputy Chief, International Affairs Staff, United States Coast Guard, Department of Transportation

Adviser

Jean Neitzke, Shipping Attache, United States Embassy, London

Fifteenth Session of the Assembly (November 9–19, 1987)

Representative

Paul A. Yost, Jr., Admiral, Commandant, United States Coast Guard, Department of Transportation

Alternate Representative

J. Anthony Allitto, Office of Technical Specialized Agencies, Bureau of International Organization Affairs, Department of State

Advisers

James C. Card, Captain, Chief, Merchant Vessel Inspection Division, United States Coast Guard, Department of Transportation

J.W. Kime, Rear Admiral, Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

G.T. Morgan, Captain, Chief, International Affairs Staff, United States Coast Guard, Department of Transportation

Jean Neitzke, Shipping Attache, United States Embassy, London

Dana W. Starkweather, Captain, Chief, Telecommunications Systems Division, United States Coast Guard, Department of Transportation

Gerard P. Yoest, Deputy Chief, International Affairs Staff, United States Coast Guard, Department of Transportation

Private Sector Adviser

Donald C. Hintze, Captain, USCG (Ret.), National Ocean Industries Association, Washington, DC.

Fifty-Ninth Session of the Council (November 20, 1987)

Representative

J. Anthony Allitto, Office of Technical Specialized Agencies, Bureau of International Organization Affairs, Department of State

Alternate Representatives

G.T. Morgan, Captain, Chief, International Affairs Staff, United States Coast Guard, Department of Transportation

Gerard P. Yoest, Deputy Chief, International Affairs Staff, United States Coast Guard, Department of Transportation

Adviser

Jean Neitzke, Shipping Attache, United States Embassy, London

Private Sector Adviser

Donald C. Hintze, Captain, USCG (Ret.), National Ocean Industries Association, Washington, DC

United States Delegation to the International Telecommunication Union (ITU) International Telegraph and Telephone Consultative Committee (CCITT) Study Group XVIII (Digital Networks, Including ISDN) Experts Meeting on Broadband Interface Aspects, Geneva, Switzerland, November 9–11, 1987

Representative

William F. Utlaut, Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Adviser

Fred H. Nolke, International Conference Staff, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers

Rodney J. Boehm, Rockwell International, Richardson, Texas

David R. Cairns, Northern Telecom, Inc., Mountain View, California

Gary Fishman, AT&T Communications, Bedminster, New Jersey

Thomas K. Pickles, Siemens Transmission Systems, Phoenix, Arizona

Marshall Schachtman, Bell Communications Research, Red Bank, New Jersey

United States Delegation to the Committee on Tungsten, 19th Session UN Conference on Trade and Development (UNCTAD), Geneva, November 9–13, 1987

Representative

Frederick W. Siesseger, Director, International Resources Division, Department of Commerce

Alternate Representative

Gerald R. Smith, Bureau of Mines, Department of the Interior

Adviser

Dorothy Dwoskin, Office of the Deputy U.S. Trade Representative, Geneva

Private Sector Advisers

Peter K. Johnson, Administrative Director, Refractory Metals Association, Princeton, New Jersey

Philip T. Stafford, Marketing Manager, Curtis Tungsten Inc., Upland, California

United States Delegation to the 12th Meeting of the All Weather Operations Panel (AWOP) of the International Civil Aviation Organization (ICAO), Montreal, Canada, November 9–27, 1987

Panel Member

Seymour Everett, Assistant Manager, Navigation and Landing Division, Federal Aviation Administration

Advisers

Dennis B. Cooper, International Technical Staff, Federal Aviation Administration

James Enias, Flight Technical Program Branch, Federal Aviation Administration

Thomas Laginja, Flight Inspection Policy and Standards Branch, Federal Aviation Administration

Donald Pate, Manager, Standards Development Branch, Federal Aviation Administration

Rial Sloan, Manager, MLS and Lighting Systems Branch, Federal Aviation Administration

Private Sector Advisers

Richard L. Bowers, Air Transport Association of America, Washington, DC

Gilbert Philip Christiana, MSI Services, Incorporated, Washington, DC

Michael F. DiBenedetto, Ohio University, Athens, Ohio

James H. Dargue MSI Services, Incorporated, Washigton, DC

Lawrence H. Hogle, MITRE Corporation, McLean, Virginia

Robert J. Kelly, Allied Bendix, Towson, Maryland

Kelly R. Markin, MITRE Corporation, McLean, Virginia

Michael L. Moore, Airline Pilots Association, Herndon, Virginia

Douglas B. Vickers, MSI Services, Incorporated, Washigton, DC

United States Delegation to the Third Session of the Council Meeting and First Meetings of its Permanent Committees, International Tropical Timber Organization (ITTO), Yokohama, November 11–20, 1987

Representative

John Medeiros, Acting Director, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Clinton Shaw, Office of Primary Commodities, Department of Commerce

Advisers

Stephanie Caswell, Office of Ecology and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Hans Klemm, United States Embassy, Tokyo

Private Sector Advisers

Warren C. Jimerson, President, Contact International, Inc., Portland, Oregon

Richard C. Newman, President, Plywood Tropics USA, Inc., Portland, Oregon

James Campbell Plowden, President, TERRA—Tropical Ecosystem Research and Rescue Alliance, Washington, DC

United States Delegation to the Preparatory Meeting on Copper, United Nations Conference on Trade and Development (UNCTAD), Geneva, November 16–20, 1987

Representative

Betsy Stillman, Director for Tropical Products, Commodities, and Andean Affairs, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Robert Reiley, Director, Office of Metals, Minerals, and Commodities, Department of Commerce

Congressional Staff Advisers

Denise Greenlaw, Legislative Director, Office of Senator Pete Domenici, United States Senate

Richard Yeates, Administrative Assistant, Office of Congressman Jim Kolbe, United States House of Representatives

Advisers

Stephen Brundage, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

V.A. Cammarota, Assistant Director—Minerals Information, Bureau of Mines, Department of the Interior

Dorothy Dwoskin, Attache, Office of the U.S. Trade Representative, Geneva

Private Sector Advisers

Benjamin J. Bowdon, Vice President, Metals Management, UTC/ESSEX, Fort Wayne, Indiana

Emil Romagnoli, Manager, Regulatory Affairs, ASARCO Incorporated, New York, New York

Douglas C. Yearly, Senior Vice President for Government Relations, Phelps Dodge Corporation, New York, New York

United States Delegation to the 10th Regular Meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT), Ponta Delgada, November 17–24, 1987

Commissioners

The Honorable Carmen J. Blondin (Head of Delegation), Special Associate for Trade, National Oceanic and Atmospheric Administration, Department of Commerce

The Honorable Michael B. Montgomery, San Marino, California

The Honorable Leon J. Weddig, National Fisheries Institute, Washington, DC

Advisers

Bradford E. Brown, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

David Crestin, Northeast Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Brian S. Hallman, Deputy Director, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Barry Kefauver, Executive Director, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Rebecca Rootes, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Richard Stone, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Adviser

Gordon C. Broadhead, Living Marine Resources, Incorporated, San Diego, California

United States Delegation to the International Telecommunication Union (ITU) International Radio Consultative Committee (CCIR) Interim Study Group 4 Geneva, Switzerland, November 17–December 3, 1987

Representatives

Hans J. Weiss, Senior Director, Communications Satellite Corporation, Washington, DC

Richard D. Parlow, Associate Administrator, National Telecommunications and Information Administration, Department of Commerce

Advisers

William Hatch, National Telecommunications and Information Administration, Department of Commerce

Harold G. Kimball, Chief Scientist, National Telecommunications and Information Administration, Department of Commerce

Alex C. Latker, Federal Communications Commission

Steven W. Lett, Common Carrier Bureau, Federal Communications Commission

William G. Long, Defense Communications Agency, Department of Defense, Arlington, Virginia

Vernon I. McConnell, Department of Defense, Fort George G. Meade, Maryland

Edward Miller, Lewis Research Center, National Aeronautics and Space Administration, Cleveland, Ohio

Harry Ng, National Telecommunications and Information Administration, Department of Commerce, Annapolis, Maryland

Thomas S. Tycz, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers

Jeffrey Binckes, Manager, Spacecraft Studies and Technology, COMSAT Laboratories, Clarksburg, Maryland

George Campbell, A&T Bell Laboratories, Holmdel, New Jersey

Robert F. McLaughlin, A&T Communications, Bedminster, New Jersey

Michael W. Mitchell, Consultant, Vienna, Virginia

James B. Potts, Consultant, Gaithersburg, Maryland

John L. Robinson, District Manager, AT&T Communications, Bedminster, New Jersey

David E. Weinreich, Department Manager, COMSAT Laboratories, Clarksburg, Maryland

United States Delegation to the International Telecommunication Union (ITU) International Radio Consultative Committee (CCIR) Interim Study Group 9 Geneva, Switzerland, November 19–December 4, 1987

Representative

Alex C. Latker, Federal Communications Commission

Richard D. Parlow, Associate Administrator, National Telecommunications and Information Administration, Department of Commerce

Adviser

Gerald F. Hurt, National Telecommunications and Information Administration, Department of Commerce, Annapolis, Maryland

Private Sector Advisers

Adolf J. Giger, AT&T Bell Laboratories, North Andover, Massachusetts

John J. Kenny, AT&T Bell Laboratories, North Andover, Massachusetts

Robert F. McLaughlin, AT&T Communications, Bedminster, New Jersey

Michael J. Pagones, AT&T Bell Laboratories, Holmdel, New Jersey

William D. Rummler, AT&T Bell Laboratories, Holmdel, New Jersey

United States Delegation to the International Telecommunication Union (ITU), International Radio Consultative Committee (CCIR), Interim Study Group 2, Geneva, Switzerland, November 23-December 4, 1987

Representative

John J. Kelleher, Consultant, National Aeronautics and Space Administration

Richard D. Parlow, Associate Administrator, National Telecommunications and Information Administration, Department of Commerce

Advisers

John W. Kiebler, Head, Technical Consultation Services, National Aeronautics and Space Administration

Harold G. Kimball, National Telecommunications and Information Administration, Department of Commerce

Donald B. Miller, Chief, Systems Planning Group, National Oceanic and Atmospheric Administration, Department of Commerce

Russell W. Slye, National Telecommunications and Information Administration, Department of Commerce

David Struba, Manager, NASA Spectrum Management Program, National Aeronautics and Space Administration

Robert Taylor, National Aeronautics and Space Administration

Private Sector Advisers

Norman F. de Groot, Technical Staff, Jet Propulsion Laboratory, California Institute of Technology, Pasadena, California

John Postelle, Systematics General Corporation, Sterling, Virginia

Thomas M. Sullivan, Senior Program Director, ORI, Inc., Landover, Maryland

Thomas Tillotson, Systematics General Corporation, Sterling, Virginia

Anthony R. Thompson, Systems Engineer and Frequency Coordinator, National Radio Astronomy Observatory, Charlottesville, Virginia

United States Delegation to the 25th Session of the Marine Environment Protection Committee of the International Maritime Organization (IMO), London, November 30-December 4, 1987

Representative

John W. Kime, Rear Admiral, Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

Joseph J. Angelo, Assistant Chief, Merchant Vessel Inspection and Documentation Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

Brian J. Hoyle, Director, Office of Ocean Law and Policy, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Gregory T. Jones, Lieutenant, Assistant Chief, Environmental Coordination Branch, Marine Environmental Response Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Timothy R. Keeney, Deputy General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce

David B. Pascoe, Commander, Chief, Environmental Coordination Branch, Marine Environmental Response Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

William L. Schachte, Captain, Acting Representative for Ocean Policy, Joint Chiefs of Staff, Department of Defense

Thaddeus A. Wastler, Office of Marine and Estuarine Protection, Environmental Protection Agency

Frits Wybenga, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Private Sector Advisers

William Griffin, Phillips Petroleum, Bartlesville, Oklahoma

B. Thomas Henderson, State of Texas, Austin, Texas

Sally Ann Lentz, Staff Attorney, Oceanic Society, Washington, DC

Donald Liu, Senior Vice President, American Bureau of Shipping, Paramus, New Jersey

United States Delegation to the Third Session, Working Group on Liens and Mortgages International Maritime Organization (IMO)/United Nations Conference on Trade and Development (UNCTAD), Geneva, November 30–December 11, 1987

Representative

Frederick F. Burgess, Captain, Chief, Maritime and International Law Division, United States Coast Guard, Department of Transportation

Alternate Representative

Frederick M. Rosa, Jr., Lieutenant Commander, Maritime and International Law Division, United States Coast Guard, Department of Transportation

Private Sector Adviser

Emery W. Harper, Maritime Law Association of the United States, New York, New York

United States Delegation to the Committee on Information, Computers and Communications Policy (ICCP) High Level Meeting Organization for Economic Cooperation and Development (OECD), Paris, December 3–4, 1987

Representative

The Honorable Diana Lady Dougan, Director, Bureau of International Communications and Information Policy, Department of State

Advisers

Frederick R. Crupe, Director, Information Industries Division, Office of Service Industries, International Trade Administration, Department of Commerce

Robert Deutsch, Deputy Director, Office of OECD, European Community and Atlantic Political-Economic Affairs, Bureau of European and Canadian Affairs, Department of State

Lucy H. Richards, Director, Office of Planning and Analysis, Bureau of International Communications and Information Policy, Department of State

Amy Winton, Developed Country Trade Division, Office of International Trade, Bureau of Economic and Business Affairs, Department of State

Appropriate USOECD, Mission Officer, Paris

Private Sector Advisers

Jeffrey P. Cunard, Debevoise and Plimpton, Washington, DC

P. Michael Nugent, Counsel, Office of Government Affairs, Electronic Data Systems Corporation, Washington, DC

Cathy L. Slesinger, Director of Government Relations, NYNEX Government Company, Washington, DC

Congressional Staff Adviser

Frederick Weingarten, Program Manager, Office of Information Technologies, Office of Technology Assessment, United States Congress

United States Delegation to the International Telecommunication Union (ITU) International Radio Consultative Committee (CCIR) Joint Interim Working Party [JIWP/ORB(2)] CCIR Intersessional Work for WARC ORB (2), Geneva, Switzerland, December 7–18, 1987

Representative

Warren G. Richards, Deputy Director, Office of International Radio Communications, Bureau of International Communications and Information Policy, Department of State

Alternate Representatives

Harold G. Kimball, National Telecommunications and Information Administration, Department of Commerce

Thomas S. Tycz, Common Carrier Bureau, Federal Communications Commission

Advisers

Dexter Anderson, Voice of America, United States Information Agency

William Hatch, National Telecommunications and Information Administration, Department of Commerce

Raymond D. Jennings, Institute for Telecommunications Sciences, National Telecommunications and Information Administration, Boulder, Colorado

John W. Kiebler, Head, Technical Consultation Services, National Aeronautics and Space Administration

Alex C. Latker, Federal Communications Commission

Steven W. Lett, Common Carrier Bureau, Federal Communications Commission

William G. Long, Assistant for Spectrum Utilization, Defense Communications Agency, Department of Defense, Arlington, Virginia

Robert F. May, Air Force Frequency Management Center, Department of the Air Force.

Vernon I. McConnell, Frequency Manager, Department of Defense, Fort George G. Meade, Maryland

Edward Miller, Lewis Research Center, National Aeronautics and Space Administration, Cleveland, Ohio

Richard D. Parlow, Associate Administrator, National Telecommunications and Information Administration, Department of Commerce

Norbert Schroeder, Voice of America, United States Information Agency

Steven Selwyn, Mass Media Bureau, Federal Communications Commission

Robert Taylor, National Aeronautics and Space Administration

Private Sector Advisers

Perry G. Ackerman, Manager, Systems, Engineering Laboratory, Hughes Aircraft Company, Los Angeles, California

Jeffrey Binckes, Manager, Spacecraft Studies and Technology, COMSAT Laboratories, Clarksburg, Maryland

Richard G. Gould, President, Telecommunications Systems, Washington, DC

Robert A. Hedinger, Technical Supervisor, Advanced Communications Systems, AT&T Bell Laboratories, Holmdel, New Jersey

Donald M. Jansky, President, Jansky Telecommunications, Inc., Washington, DC

David Long, GTE Spacenet, McLean, Virginia

Robert Mazer, Chadbourne, Parke, Whiteside, and Wolff, Washington, DC

Robert F. McLaughlin, AT&T Communications, Bedminster, New Jersey

John E. Miller, Senior Principal Scientist, ORI, Inc., Landover, Maryland

Michael Mitchell, Consultant, Vienna, Virginia

James B. Potts, Consultant, Gaithersburg, Maryland

Samuel E. Probst, Senior Associate, Systematics General Corporation, Sterling, Virginia

Edward E. Reinhart, Director, Techno/Regulatory Matters, Communications Satellite Corporation, Washington, DC

Hans J. Weiss, Senior Director, Communications Satellite Corporation, Washington, DC

[FR Doc. 88–1445–Filed 1–25–88; 8:45 am]

BILLING CODE 4710–19–M

[Public Notice CM–8/1154]

Study Group D of the U.S. Organization, for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 3, 1988, at 9:30 a.m. in Room 5114B of the GSA Building, 18th and F Streets, NW., Washington, DC.

Study Group D deals with data communications.

The purpose of the meeting will be to review and approve U.S. Contributions and consider nomination of delegates to upcoming meeting of Study Group VII scheduled to begin on March 24, 1988, and to consider any other issues related to Study Group D interests.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 653–6102.

Dated: January 5, 1988.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 88–1446 Filed 1–25–88; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 1045]

Director General of the Foreign Service and Director of Personnel; State Department Performance Review Board Member

In accordance with section 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Executive Resources Board of the Department of State has appointed the following member to the State Department Performance Review Board Register and

in so doing amends accordingly Department of State Public Notice No. 1026, effective September 15, 1987:

Joseph H. Linnemann, Associate Comptroller, Office of the Comptroller.

Date: January 13, 1988.

George S. Vest,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 88-1447 Filed 1-25-88; 8:45 am]

BILLING CODE 4710-15-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination in Compliance with Section 109 of Public Law 100-202

ACTION: Notice.

SUMMARY: The United States Trade Representative has made the following determination in compliance with the requirements of section 109 of the continuing resolution on the Fiscal Year 1988 budget, H.J. Res. 395 (Pub. L. 100-202, 101 Stat. 1329).

EFFECTIVE DATE: January 21, 1988.

FOR FURTHER INFORMATION CONTACT: (for procurement policy issues) Beverly Vaughan, Director for Procurement Trade Policy, Office of the U.S. Trade Representative ("USTR"), 600 17th St. NW., Washington, DC 20506, (202) 395-3063; (for legal issues) Amelia Porges, Associate General Counsel, USTR, (202) 395-7305. Written comments or submissions from interested parties or the public may be directed to the USTR.

Discussion

The continuing resolution on the Fiscal Year 1988 Budget, H.J. Res. 395, was signed and enacted as Pub. L. 100-202 on Dec. 22, 1987. Section 109(a) of Pub. L. 100-202 sets forth certain requirements and prohibitions applicable to Federal public works procurement. Section 109(c) requires the USTR to maintain a list of certain foreign countries ("Section 109 List"). This list was published initially on Dec. 30, 1987 (52 FR 49244).

Section 109(b) provides that not later than 30 days after enactment of Pub. L. 100-202, the USTR shall determine whether other foreign countries deny fair and equitable market opportunities for products and services of the United States in bidding and procurement for certain construction projects. The relevant such projects are those that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country. If a foreign country is found to deny such opportunities, the USTR must then include that country on the Section 109 List.

In making his determination under section 109(b), the USTR is required to take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence as is available concerning discrimination in construction projects against United States products and services. The legislative history of section 109 directs the USTR to pay special attention to information which is supplied either informally or formally by U.S. architecture, construction, and engineering companies.

In the short time available since enactment of Pub. L. 100-202, we have gathered and reviewed such information as is available concerning public construction procurement practices and market access for United States products and services in major public construction projects in foreign countries not yet listed under section 109. On the basis of the information available to us, including information submitted to us by construction industry associations and United States construction companies active in international construction, it is clear that many countries maintain objectionable practices regarding construction procurement. However, insufficient information is available to permit me at this time to make a broad, formal determination with respect to any foreign country other than Japan that such country is denying such fair and equitable market opportunities. Therefore, the list published on December 30, 1987 at 52 FR 49244 will remain in effect as the Section 109 List.

The USTR will add to the Section 109 List at any time if sufficient information indicates that another country is denying such fair and equitable market opportunities. In view of the shortness of the time period for review and analysis of information thus far, we will continue actively to review the available information, will consult additionally with the U.S. architect, construction, and engineering industries and other relevant industries, and will obtain followup information on construction procurement practices for this purpose. No later than 180 days from January 21, we will revisit this issue and will add to the Section 109 List if it is appropriate based on such an assessment of the information available at that time.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 88-1609 Filed 1-22-88; 1:40 pm]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[OGD 88-003]

The Boat Safety Account of the Aquatic Resources Trust Fund; Availability of Fiscal Year 1988 Financial Assistance

AGENCY: U.S. Coast Guard DOT.

ACTION: Notice of availability of FY 88 financial assistance.

SUMMARY: Pursuant to Title 46 United States Code section 13103(c), the Coast Guard is seeking to enter into financial assistance agreements with national nonprofit public service organizations for national boating safety activities. The Coast Guard has fiscal year 1988 funds available to subisidize selected national boating safety activities. This announcement seeks proposals for all types of projects that will promote boating safety on a national level.

DATE: Proposals must be submitted to the following address by March 31, 1988.

ADDRESS: Specific information on organization eligibility, proposal requirements, award procedures, financial administration procedures and application forms (SF 424) may be obtained from Commandant (G-BP/42), U.S. Coast Guard, 2100 Second Street, SW. Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: Mr. Ladd Hakes by telephone at (202) 267-0954 or at U.S. Coast Guard Headquarters (G-BP/42), 2100 Second Street, SW. Washington, DC 20593-0001.

SUPPLEMENTARY INFORMATION: Title 26, United States Code, Section 9504 establishes the Boat Safety Account of the Aquatic Resources Trust Fund. The Coast Guard may award annually up to 5 percent of the available funds to national nonprofit public service organizations for national boating safety activities. Up to $1,000,000 is available for the fiscal year ending September 30, 1988. Fifteen awards totaling $900,000 were made in fiscal year 1987; awards ranged from $8,970 to $168,000. Nothing in this announcement should be construed as committing the Coast Guard to dividing available funds among all qualified applicants or awarding any specified amount.

It is anticipated that several awards will be made by Chief, Office of Boating, Public and Consumer Affairs, U.S. Coast Guard. Applicants must be responsible, nongovernmental, nonprofit public service organizations and must establish that their activities are, in fact, national in scope.

Some project areas of particular interest include: Development of educational/informational materials that will promote increased wearing of personal flotation devices (PFDs); Production of training films/videos on various boating activities, including water-skiing, boating safety for sportsmen, sailboard safety, navigation (coastal, beginning, advanced), and personal watercraft safety; Production of video/slide presentations on recreational boating regulations to be used in educating boat manufacturers; Conducting a national survey to obtain a wide variety of current information on boat and boater populations; Conducting a survey/study on the suitability and problems with permanently installed plastic gasoline fuel tanks; and Production of training films/videos for boating safety instructors. This list should not constrain submission of proposals addressing other boating safety concerns. Innovative approaches are welcome.

The Boating Safety Financial Assistance Program is listed in Section 20.005 of the Federal Domestic Assistance Catalog.

Dated: January 19, 1988.

M.E. Gilbert,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 88-1460 Filed 1-25-88; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-88-3]

Petitions for Exemption; Summary of Petitions Received, and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before February 17, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 7, 1988.

Denise D. Hall,

Acting Manager, Program Manager Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25426	Vieques Air Link, Inc.	14 CFR 135.243(b)(3)	To allow petitioner to operate without the requirement that its pilots hold an airline transport certificate. In the alternative, petitioner requests an exemption from § 135.293(a)(4) to allow its pilots to be exempt from the instrument approach procedures required for tests and checks.
23921	FlightSafety International	14 CFR 61.57(c) and (d)	To permit pilots contracting with petitioner to make the takeoffs and landings required by § 61.57 (c) and (d) in petitioner's Phase I and Phase II simulators in lieu of the aircraft in flight. Grant, December 20, 1987.
25254	Omniflight Helicopters, Inc.	14 CFR 43.3(g)	To allow certificated pilots who are employed by petitioner to replace medical oxygen cylinders installed in aircraft operated by petitioner after such cylinders have been depleted. Denial, December 31, 1987.
25259	American Airlines Flight Academy	14 CFR 121.411 and 121.413.	To allow petitioner to use Aeroformation pilot simulator/flight instructors for the purpose of training petitioner's initial cadre of pilots in the Airbus Industrie A300-600R type airplane in Toulouse, France, without those instructors holding appropriate U.S. certificates and ratings and without their meeting all of the applicable training requirements of Subpart N of Part 121. Further, to provide that all additional ratings be conducted by an FAA airman certification inspector. Grant, December 31, 1987.

[FR Doc. 88-1438 Filed 1-25-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 20, 1988.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau 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 N.W., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0913
Form Number: None
Type of Review: Extension
Title: Below-market Loans
Description: Section 7872 recharacterizes a below-market loan as a market rate loan and an additional transfer by the lender to the borrower equal to the amount of imputed interest. The regulation requires both the lender and the borrower to attach a statement to their respective income tax returns for years in which they have either imputed income or claim imputed deductions under section 7872.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 1 hour
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88–1531 Filed 1–25–88; 8:45 am]

BILLING CODE 4810–25–M

Internal Revenue Service

Income Taxes; Test Transmissions of Electronic Forms 1040, 1040A, and 1040EZ from Panama Canal Zone

AGENCY: Internal Revenue Service, Treasury.

ACTION: Electronic Filing Program.

SUMMARY: During the 1988 filing season the Internal Revenue Service will conduct a test in which U.S. Individual Income Tax Returns, Forms 1040, 1040A, and 1040EZ, may be filed electronically from U.S. Army bases in the Panama Canal Zone.

The Department of the Army will be the electronic filer for these test returns. The Pentagon will transmit them to the Cincinnati Service Center.

Parties interested in learning the results of the test should contact the Electronic Filing Project Office after April 15, 1988.

SUPPLEMENTARY INFORMATION: In 1988 Forms 1040, 1040A, and 1040EZ can be filed electronically from certain areas of the continental United States. Electronically-filed Forms 1040 can include Schedules A, B, C, D, E, R, SE, and Forms W–2, W–2P, W–2G, 2106, 2119, 2441, 3903, 4562, 6198, 6251, 6252, 8283, 8582, 8598, and 8606.

As a test, the Internal Revenue Service will accept electronic returns transmitted from U.S. Army bases in the Panama Canal Zone. The same forms and schedules will be accepted in this test that are accepted in the general electronic filing program.

The U.S. Department of the Army will be the electronic filer for the returns filed in the test. The Pentagon will transmit them to the Cincinnati Service Center for processing.

If the test is successful, it may be expanded to include other overseas areas for the 1989 filing season. The results of the test will be available after the 1988 filing season ends. After April 15, 1988, interested parties can obtain the test results by contacting the Internal Revenue Service, Electronic Filing Project Office, TR:E:O, 1111 Constitution Ave. NW., Washington, DC 20224.

Dick Moran,

Electronic Filing Project Officer.

[FR Doc. 88–1503 Filed 1–25–88; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Crossroads of Continents: Cultures of Siberia and Alaska

On October 13, 1987, notice was published at page 38038 of the **Federal Register** (52 FR 38038) by the United States Information Agency pursuant to Pub. L. 89–259 relating to the exhibit "Crossroads of Continents: Cultures of Siberia and Alaska." Temporary exhibit of the additional imported culturally significant objects listed [1] is in the national interest.

Date: January 20, 1988.

C. Normand Poirier,

Acting General Counsel.

[FR Doc. 88–1489 Filed 1–25–88; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202–485–7988, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 53, No. 16
Tuesday, January 26, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

January 20, 1988.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552B:

TIME AND DATE: January 27, 1988, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 870th Meeting—January 27, 1988, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 10002-002, American Power Products, Inc.
CAP-2.
Project No. 3239-007, Puget Sound Power and Light Company and McMaster and Schroder.
CAP-3.
Project No. 2512-003, Elkem Metals Company
CAP-4.
Project No. 233-023, Pacific Gas and Electric Company
CAP-5.
Project No. 2785-002, Wolverine Power Corporation
CAP-6.
Project No. 2756-006, Burlington Electric Department and Winooski One Partnership
CAP-7.
Project No. 2307-011, Alaska Electric Light and Power Company of Juneau
CAP-8.
Project No. 2739-012, Utilities Commission and City of Vanceburg, Kentucky
CAP-9.
Project No. 516-027, South Carolina Electric and Gas Company
CAP-10.
Project No. 3865-005, Guadalupe-Blanco River Authority
CAP-11.
Project No. 4182-008, Shorock Hydro, Inc.
CAP-12.
Project No. 6939-006, City of Jackson, Ohio
CAP-13.
Project No. 6842-003, City of Aberdeen, Washington, and City of Tacoma, Washington
CAP-14.
Project No. 8178-000, Eveready Machinery Company and McCallum Enterprises, Inc.
Project No. 8794-000, New Haven Copper Company
CAP-15.
Docket No. ER82-616-035, System Energy Resources, Inc.
Docket No. ER82-483-029, MSU System Services, Inc.
CAP-16.
Docket No. ER87-639-001, Gulf States Utilities Company
CAP-17.
Docket No. ER87-561-001, Arizona Public Service Company
CAP-18.
Docket Nos. ER87-581-001 and ER84-705-007, Boston Edison Company
CAP-19.
Docket No. ER87-488-001, Consolidated Edison Company of New York, Inc.
CAP-20.
Docket No. ER87-506-001, Sierra Pacific Power Company
CAP-21.
Docket No. ER85-109-000, Niagara Mohawk Power Corporation
CAP-22.
Docket No. EL87-61-000, Wabash Valley Power Association, Inc. v. Public Service Company of Indiana, Inc.
CAP-23.
Docket No. EL87-45-000, The Cities of Marshall, Blue Earth, Mountain Lake, St. James, and Sauk Centre, Minnesota and Hillsboro, North Dakota v. Northern States Power Company-Minnesota
CAP-24.
Docket No. EL87-62-000, American Municipal Power-Ohio, Inc. v. Ohio Edison Company
CAP-25.
Docket No. QF81-18-001, Trenton District Energy Company
CAP-26.
Docket No. EC88-2-001, Utah Power & Light Company, PacifiCorp and PC/UP&L Merging Corporation

Consent Miscellaneous Agenda

CAM-1.
Docket No. RM87-35-000, Generic Determination of Rate of Return on Common Equity for Public Utilities
CAM-2.
Docket No. RM87-25-000, Regulations Delegating Authority
CAM-3.
Docket No. RM87-15-001, Regulations Implementing the National Environmental Policy Act of 1969
CAM-4.
Docket No. RM79-27-001, Petition for Rulemaking in the Matter of Determinations Whether Wells Drilled in More Than 500-Foot Water Depth Should be Determined to be "High Cost Gas" Under section 107(c) (5) of the Natural Gas Policy Act of 1978
Docket Nos. RM79-76-253 and 254, Petition of Montana-Dakota Utilities Company to Reopen Order No. 99
Docket No. RM80-12-001, New, Onshore Production Wells; Proposed Rulemaking Amending Final Regulations Implementing the Natural Gas Policy Act of 1978
Docket Nos. RM80-38-001 and 002, High-Cost Natural Gas Produced from Wells Drilled in Deep Water
Docket No. RM81-30-001, Petition for Rulemaking to Restrain Prices for Deregulated Gas
Docket No. RM81-35-001, Petition for Rulemaking for Implementation of the Commission's Rulemaking Authority to Require Filing of Contracts Under section 315(c) of the Natural Gas Policy Act
Docket No. RM82-1-001, Petition for Rulemaking to Establish Revised Policies Under the Natural Gas Policy Act Respecting the Purchases and Use of Gas
Docket No. RM82-8-001, High-Cost Natural Gas Produced from Intermediate Deep Drilling
Docket No. RM82-17-001, Petition for Rulemaking to Investigate and Establish Rules Mitigating Market Distortions Under the Natural Gas Policy Act
Docket No. RM82-19-001, Petition to Institute a Proceeding, Pursuant to the Natural Gas Policy Act, sections 104(b) and 106(c), to Increase the Price of Flowing Interstate Natural Gas
Docket No. RM82-20-001, Petition for Rulemaking to Require Filing of Contracts Under section 315(c) of the Natural Gas Policy Act
Docket No. RM82-26-001, Impact of the Natural Gas Policy Act on Current and Projected Natural Gas Markets
Docket Nos. RM82-32-001 and 002, Limitation on Incentive Prices for High-Cost Gas to Commodity Values
Docket Nos. RM82-33-001 and 002, Comments in Opposition to Proposed Rulemaking in the Matter of High-Cost Gas Produced from Tight Formations, Docket No. RM79-76 (Ohio-2)
Docket No. RM83-46-001, Petition for Rulemaking in the Matter of Take-or-Pay Clauses in Producer/Pipeline Contracts
Docket No. RM84-7-001, Impact of Special Marketing Programs and Natural Gas Companies and Consumers

Docket No. RM84–13–001 Petition for Rulemaking on the Effect of Price Escalator Clauses
Docket No. RM84–17–001, Petition for Rulemaking in the Matter of Reformation of Take-or-Pay Clauses

CAM–5.
Docket Nos. RM83–72–011 and 012, First Sales of Pipeline Production Under section 2(21) of the Natural Gas Policy Act of 1978
Docket Nos. RM82–16–011 and 012, First Sales by Affiliates

CAM–6.
Docket No. RM87–29–000, State Corporation Commission of the State of Kansas

CAM–7.
Docket No. GP86–40–000, Railroad Commission of Texas, Paramount Petroleum Corporation, David Pilot Gas Unit No. 1 Well NGPA Section 108 Determination, FERC No. JD82–27133, NGPA Section 108—Enhanced Recovery, FERC No. JD82–29588

CAM–8.
Docket No. GP86–15–000, Jeems Bayou Production Corporation

CAM–9.
Docket No. SA80–40–006, RJB Gas Pipeline Company

Consent Gas Agenda

CAG–1.
Docket No. RP88–44–000, El Paso Natural Gas Company

CAG–2.
Docket Nos. RP88–41–000, RP85–13–000 and RP87–27–000, Northwest Pipeline Corporation

CAG–3.
Docket No. RP88–47–000, Northwest Pipeline Corporation

CAG–4.
Docket Nos. RP88–45–000 and RP88–46–000, Arkla Energy Resources, a Division of Arkla Inc.

CAG–5.
Docket No. TA88–1–14–000, Lawrenceburg Gas Transmission Corporation

CAG–6.
Docket No. TA88–1–52–000, Western Gas Interstate Company

CAG–7.
Docket No. TA88–1–61–000, Bayou Interstate Pipeline System

CAG–8.
Docket No. TA88–2–16–000, National Fuel Gas Supply Corporation

CAG–9.
Docket No. TA88–2–17–000, Texas Eastern Transmission Corporation

CAG–10.
Docket No. TA88–2–18–000, Texas Gas Transmission Corporation

CAG–11.
Docket No. TA88–4–59–000, Northern Natural Gas Company, Division of Enron Corporation

CAG–12.
Docket No. TA87–4–49–004, Williston Basin Interstate Pipeline Company

CAG–13.
Docket Nos. RP87–33–004 and 005, Williams Natural Gas Company

CAG–14.
Docket No. TA87–3–17–002, Texas Eastern Transmission Corporation

CAG–15.
Docket No. RP86–106–009, Arkla Energy Resources

CAG–16.
Docket No. TA87–3–18–000, Texas Gas Transmission Corporation

CAG–17.
Omitted

CAG–18.
Docket Nos. TA88–2–8–000 and 001, South Georgia Natural Gas Company

CAG–19.
Docket Nos. RP85–178–025, RP81–54–035 and RP87–26–022, Tennessee Gas Pipeline Company

CAG–20.
Docket Nos. RP87–21–001, 002 and 003, Northern Natural Gas Company

CAG–21.
Omitted

CAG–22.
Docket Nos. RP82–55–031 and RP87–7–000, Transcontinental Gas Pipe Line Corporation

CAG–23.
Docket No. RP88–10–003, Consolidated Gas Transmission Corporation

CAG–24.
Docket No. RP88–5–001, Transcontinental Gas Pipe Line Corporation

CAG–25.
Omitted

CAG–26.
Docket Nos. TA87–5–21–002, 003 and 004, Columbia Gas Transmission Corporation

CAG–27.
Docket Nos. TA88–1–51–000 and 001, Great Lakes Gas Transmission Company

CAG–28.
Docket No. TA85–2–37–021, Northwest Pipeline Corporation

CAG–29.
Docket Nos. TA84–2–49–001 and TA85–1–49–002, Williston Basin Interstate Pipeline Company

CAG–30.
Omitted

CAG–31.
Docket Nos. TA87–1–37–010, 011 and 009, Northwest Pipeline Corporation

CAG–32.
Docket Nos. TA83–1–32–000, TA84–1–32–004, TA85–1–32–003, TA85–5–32–000, RP79–59–000 and RP82–54–018, Colorado Interstate Gas Company

CAG–33.
Docket No. RP87–15–000, Trunkline Gas Company

CAG–34.
Docket Nos. RP87–43–000 and 002, MIGC, Inc.

CAG–35.
Docket No. ST87–4118–000, Delhi Gas Pipeline Corporation

CAG–36.
Docket Nos. ST82–95–002, ST82–442–001, ST83–268–000, ST84–628–000 and ST84–628–001, Red River Pipeline

CAG–37.
Docket No. ST87–1986–000, ONG Transmission Company

CAG–38.
Docket No. CI85–513–008, Tenngasco Gas Supply Company, *et al.* v. Southland Royalty Company, *et al.*

CAG–39.
Docket Nos. CI86–418–000 and CI86–424–000, El Paso Natural Gas Company

CAG–40.
Docket Nos. CI87–788–000 and CI87–797–000, Transwestern Pipeline Company
Docket Nos. CI87–911–000 and CI87–943–000, Mountain Fuel Resources, Inc.

CAG–41.
Docket Nos. CI73–334–000, CI73–476–000, CI74–610–000 and CI80–133–001, Mobil Exploration and Producing North America, Inc. (formerly The Superior Oil Company) and Mobil Oil Exploration and Producing Southeast, Inc.

CAG–42.
Docket No. CP85–912–006, Colorado Interstate Gas Company

CAG–43.
Docket Nos. CP87–57–003, CP87–166–003, CP87–316–003, CP87–386–004 and CP87–406–003, Florida Gas Transmission Company

CAG–44.
Docket Nos. CP81–225–003 and CP87–164–001, Great Lakes Gas Transmission Company

CAG–45.
Docket No. CP86–709–000, Midwestern Gas Transmission Company

CAG–46.
Docket No. CP87–141–001, Colorado Interstate Gas Company

CAG–47.
Omitted

CAG–48.
Omitted

CAG–49.
Docket No. CP87–221–000, Southwest Gas Corporation v. Pipeline Corporation

CAG–50.
Docket No. CP87–502–000, Northwest Pipeline Corporation
Docket No. CI87–899–000, Mobil Oil Corporation

CAG–51.
Docket No. CP87–515–000, Trunkline Gas Company

CAG–52.
Docket No. CP87–474–000, Great Lakes Gas Transmission Company

CAG–53.
Docket Nos. CP86–337–000 and 002, Algonquin Gas Transmission Company

CAG–54.
Docket No. CP85–090–000, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company

CAG–55.
Docket Nos. CP85–190–000, CP85–264–000 and CP85–294–000, Transcontinental Gas Pipe Line Corporation
Docket Nos. CP87–37–000 and 001, Columbia Gas Transmission Corporation v. Transcontinental Gas Pipe Line Corporation

CAG–56.
Docket No. RP88–43–000; Columbia Gas Transmission Corporation

CAG–57.
Docket No. RP82–55–033, Transcontinental Gas Pipe Line Corporation

CAG–58.

Docket Nos. RP86–14–036 and RP86–108–017, Columbia Gulf Transmission Company
Docket Nos. RP86–15–036 and RP86–112–018, Columbia Gas Transmission Corporation
CAG–59.
Docket No. RP87–93–001, Columbia Gas Transmission Corporation
CAG–60.
Docket No. RP85–122–006, Colorado Interstate Gas Company
CAG–61.
Docket No. CP88–17–001, Natural Gas Pipeline Company of America

II. Electric Rate Matters

ER–1.
Omitted

Miscellaneous Agenda

M–1.
Omitted
M–2.
Omitted
M–3.
Omitted
M–4.
Docket No. RM87–5–000, Inquiry into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines. Notice of inquiry into alleged anticompetitive practices related to marketing affiliates of interstate pipelines. Final rule

I. Pipeline Rate Matters

RP–1.
Docket Nos. RP86–119–000, TA84–2–9–007 and TA85–1–9–004, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Opinion on initial decision concerning take-or-pay buyout and buydown cost pasthrough mechanism.

II. Producer Matters

CI–1.
Reserved

III. Pipeline Certificate Matters

CP–1
Docket No. CP85–437–006, Mojave Pipeline Company
Docket No. CP87–552–000, Kern River Gas Transmission Company
Docket No. CP87–479–001, Wyoming-California Pipeline Company. Order on rehearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–1570 Filed 1–22–88; 11:27 am]

BILLING CODE 6717–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, February 1, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of check processing equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: January 22, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–7628 Filed 1–22–88; 3:27 pm]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Tuesday, January 26, 1988.

PLACE: Room 532, (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public

(1) Oral Argument in Removatron International Corporation, Docket 9200.

Portions Closed to the Public

(2) Executive Session to follow Oral Argument in Removatron International Corporation, Docket 9200.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179; Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 88–1620 Filed 1–22–88; 1:13 pm]

BILLING CODE 6750–01–M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, February 3, 1988.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of January 1988.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523–5920.

Date of Notice: January 22, 1988.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 88–1617 Filed 1–22–88; 1:12 pm]

BILLING CODE 7550–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Amendment To Vote To Close Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 838, January 13, 1988.

PREVIOUSLY ANNOUNCED DATE OF MEETING: February 1, 1988.

CHANGES:

1. Change first sentence of third paragraph to read:

"The Board determined that, pursuant to section 552b(c)(3) of Title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations the meeting is exempt from the open meeting provisions of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39 (having to do with postal rate making, classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code."

2. Change last three lines of fourth paragraph to read:

"(3) and (10) of Title 5 and section 410(c)(4) of Title 39, United States Code, and § 7.3 (c) and (j) of Title 39, Code of Federal Regulations."

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 88–1645 Filed 1–22–88; 3:48 pm]

BILLING CODE 7710–12–M

POSTAL SERVICE BOARD OF GOVERNORS

Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 12:15 p.m. on Monday, February 1, 1988, in Washington, DC, and at 8:30 a.m. on Tuesday, February 2, 1988, in the Benjamin Franklin Room, U.S. Postal

Service Headquarters, 475 L'Enfant Plaza SW., Washington, DC. As indicated in the following paragraph, the February 1 meeting is closed to the public. The February 2 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

By telephone vote on January 21, 1988, the Board voted to add consideration of a personnel matter to the closed session agenda, citing exemptive provision 5 U.S.C. 552b(c)(6) and 39 CFR 7.3(f). At its meeting on January 4, 1988, the Board voted to close to public observation its meeting scheduled for February 1, 1988, to consider a proposed filing with the Postal Rate Commission. [See 53 FR 838, January 13, 1988 (as subsequently amended.)] By telephone vote on January 13 and 15, 1988, the Board voted to add consideration of a proposed capital investment to the closed session agenda. (See 53 FR 1889, January 22, 1988.)

Agenda

Monday Session

February 1, 1988, 12:15 p.m. (Closed)

1. Consideration of a new Postmaster General.
2. Consideration of a proposed filing with the Postal Rate Commission regarding Express Mail Service.
3. Capital Investment: Westchester, NY, GMF/VMF.

Tuesday Session

February 2, 1988, 8:30 a.m. (Open)

1. Minutes of the Previous Meeting, January 4–5, 1988.
2. Remarks of the Postmaster General.
3. Wrap-up Report on CSRS/FERS.
4. Quarterly Report on Financial Performance.
5. Annual Report of the Postmaster General.
6. Status Report on Automation Program.
7. Tentative Agenda for March 7–8, 1988, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 87–1646 Filed 1–22–87; 3:48 pm]

BILLING CODE 7710-12-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 25, February 1, 8, and 15, 1988.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED: .

Week of January 25

Tuesday, January 26

2:00 p.m.
Briefing by GE on New Standardized Plants (Public Meeting)

Thursday, January 28

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 1—Tentative

Wednesday, February 3

2:00 p.m.
Briefing on Status of State, Local, and Indian Tribe Programs (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 8—Tentative

Thursday, February 11

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 15—Tentative

Thursday, February 18

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission voted on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Andrew Bates (202) 634–1410.

Andrew L. Bates,

Office of the Secretary.

January 21, 1988.

[FR Doc. 88–1644 Filed 1–22–88; 3:44 pm]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

TIME AND DATE: Periodic meetings will be held between February 10, 1988 and March 4, 1988.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: To discuss evidence in Docket No. R87–1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 88–1557 Filed 1–22–88; 9:12 am]

BILLING CODE 7715-01-M

Corrections

Federal Register
Vol. 53, No. 16
Tuesday, January 26, 1988

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 1943

Provisions for Planning and Performing Construction and Other Development

Correction

In rule document 87-5182 beginning on page 7998 in the issue of Friday, March 13, 1987, make the following correction:

On page 8035, in the second column, in amendatory instruction 30, in the third line, "1942-1" should read "1924-1".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands

Correction

In rule document 88-698 beginning on page 894 in the issue of Thursday, January 14, 1988, make the following correction:

On page 896, in the third column, in the third complete paragraph, in the last line, after "effectiveness" insert "provision is also waived. However, interested persons are invited to submit comments in writing on the reapportionment to the above address".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2663/P432; FRL 3308-6]

Pesticide Tolerance for Deltamethrin

Correction

In proposed rule document 87-29873 beginning on page 49177 in the issue of Wednesday, December 30, 1987, make the following correction:

§ 180.435 [Corrected]

On page 49178, in the second column, in § 180.435, in the table, in the right hand column, ".02" should read "0.2".

BILLING CODE 1505-01-D

federal register

Tuesday
January 26, 1988

Part II

Department of Agriculture

Farmers Home Administration

7 CFR Parts 1924, 1930, 1933, 1944, 1951 and 1965

Rural Rental Housing Loan Policies, Procedures and Authorizations; Final Rule

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1924, 1930, 1933, 1944, 1951 and 1965

Rural Rental Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation for processing section 515 rural rental housing (RRH) loans. This action is necessary to comply with the Rural Housing Amendments of 1983. In addition, FmHA clarifies existing policies and procedures. The intended effect is to be consistent with the Rural Housing Amendments of 1983 and to provide clearer instructions for processing RRH loans.

EFFECTIVE DATE: February 25, 1988.

FOR FURTHER INFORMATION CONTACT: Eileen Nowlin, Loan Specialist, Rural Rental Housing Branch, Multi-Family Housing Processing Division, Farmers Home Administration, Room 5337, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250, Telephone: (202) 382–1604.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

Vance L. Clark, Administrator, Farmers Home Administration, has determined that this action will not have a significant impact on a substantial number of small entities because the revisions provide clarification of existing regulations and the annual volume of the program is expected to continue to decline. FmHA anticipates funding approximately 850 applications nationwide.

Environmental Impact Statement

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

Intergovernmental Review

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.415 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983).

General Information

Numerous editorial and clarifying changes were made to the regulation. For example, references to Section 8 Plan I and Plan II loans were deleted since there has been no Section 8 available for several years. The likelihood of Section 8 being available in the future is remote. Some exhibits were removed because they are no longer applicable to the program and some were transferred to more appropriate regulations. In addition, some paragraphs were deleted because they already are addressed in other regulations; in those cases a citation to the proper regulation has been made. Some paragraphs were deleted because they appeared elsewhere in the regulation and some paragraphs were moved to a more appropriate sequence in this regulation.

Discussion of Comments

A proposed rule was published in the **Federal Register** (52 FR 7584) on March 12, 1987, and invited comments for 60 days ending May 11, 1987.

Comments were received from 58 different developers, legal services organizations, trade associations, nonprofit organizations, architects, FmHA employees and other individuals.

The following summarizes the comments and the actions taken.

A. Initial Operating Capital and Borrower Contribution

These comments refer to § 1944.211.

Several respondents were concerned that FmHA was requiring the initial operating capital and the borrower contribution to be in the form of cash, readily convertible securities or land. The respondent felt that the language should allow the applicant to be able "to obtain" the needed funds. They commented that prudent developers do not keep cash sitting around and that evidence of the ability to be able to obtain the cash could be evidenced by irrevocable letters of credit, scrutiny of financial statements, firm receivables, etc. One respondent felt that the applicant should have cash for the initial operating capital and the borrower contribution. *Response:* We agree with the majority of the respondents and changed the wording to allow the borrower to be able "to obtain" the initial operating capital and borrower contribution, although we are concerned that the project not be encumbered in any way.

Two respondents do not agree that FmHA should be able to lend initial operating capital to nonprofit groups and public agencies. *Response:* The Agency is concerned that nonprofit groups and public agencies might not have operating capital available to them and will continue to consider initial operating capital as an eligible loan purpose.

Several respondents felt that the requirement that limited partnerships must show the borrower contribution and initial operating capital as unencumbered and freely owned should be eliminated. *Response:* The Agency has agreed with the suggestion and removed this requirement.

One respondent felt that this section should be clarified to state that the initial operating capital cannot be from anticipated future syndication proceeds. *Response:* The Agency has determined that if documentation is provided that confirms syndication proceeds are due and payable under existing contracts, they can be used to provide the initial operating capital and borrower equity.

B. Ownership Interest

These comments refer to § 1944.211.

Several respondents were concerned about the requirement that general partners would be required to maintain 5 percent financial interest in both the partnership and the current losses, profits and cash distribution. They suggested that this be changed.

Response: The Agency has agreed with the suggestion and revised the wording to require only a 5 percent ownership interest in the partnership entity.

C. Certified Audited Financial Statements and Number of Preapplications, Applications and Loans

These comments refer to § 1944.211.

Many respondents were concerned about § 1944.211 that required applicants to submit certified audited financial statements and limited the number of preapplications, applications and loans that any one applicant could have. *Response:* The Agency considered the comments and decided that requiring the certified audited financial statements and limiting the number of preapplications, applications and loans was not the best way to provide controls on the program. These controls have been replaced by entering in Exhibit A–6 the requirement that when multiple applications are involved, or when the State Director feels it necessary, the applicant will be asked to submit additional financial information such as a six to twelve month pro no statement.

D. Conversion of 502 Housing to Rental

These comments refer to § 1944.212.

Several respondents felt that participation in this effort should not be limited to public agencies and nonprofit organizations. One respondent each was concerned that the units must be rehabilitated prior to conversion and that the term "community" should be defined. *Response:* The Agency is required by statute to limit participation to public agencies and nonprofit organizations. Applicants will not be expected to rehabilitate the 502 units prior to conversion; they will be rehabilitated while still in FmHA inventory. The definition of community has been included.

E. Limitations on Cost Increases

These comments refer to § 1944.213.

Two respondents felt that we should define "loan approval", one felt that requiring nonprofits to cover cost overruns is not realistic, one felt that "unforeseen factors" should be defined, one felt that the section should be clarified regarding preexisting conditions and one felt that we should allow additional funds when overruns were anticipated. *Response:* The Agency reviewed all comments and is not changing this section. It is felt that the section is clearly understandable and that no one issue was raised enough to merit change. In addition, loan approval is discussed in another section and additional funds can be approved for many unanticipated reasons.

F. Size of Units

These comments refer to § 1944.215.

Many respondents were concerned that square foot guidelines have been reduced and made mandatory. They are concerned about livability, marketability and local handicapped regulations requiring larger size and feel that cost should be the overriding factor. Two respondents supported the size reduction. *Response:* After considering all comments, we have decided to increase the size guidelines for 0-bedroom units. All other units will remain as shown in the prior rule. The requirement that the units "will" be within the guidelines remains.

G. Cost Containment Features

These comments refer to § 1944.215.

Many comments were received on various aspects of the cost containment features in the proposed rule. Due to the importance of cost containment, a new paragraph (a) was added to guide applicants and FmHA employees. As shown below in the responses to comments, many specific cost containment items are now covered in the new cost containment standards paragraph, and the importance of the subject is not to be diminished. Shown below are the specific areas that were commented on.

Limitation on Use of Loan Funds for Nonessential Facilities: Many respondents were concerned about not being able to use loan funds to finance carports, covered parking, garages and basements. They believe that in some areas these things are essential and that if needed because of weather conditions, storage requirements or zoning requirements, they should be allowed. *Response:* The Agency has considered these comments and has agreed to allow the financing of covered parking or garages only when they are required by local zoning.

Sliding Glass Doors: Many respondents were concerned that sliding glass doors were restricted to south walls and they felt that local conditions should govern if and where doors should be placed. Many respondents were concerned that insurance rates would increase since sliding glass doors often serve as a second means of egress. One respondent did not want sliding glass doors to be permitted in any case. *Response:* The Agency has removed this specific provision and, as discussed above, dealt with cost containment through the new cost containment standards paragraph.

Marshall Swift "fair quality": Four comments were received concerning the requirement that comments such as kitchen cabinets and bathroom fixtures not exceed Marshall Swift "fair quality" and three comments were received concerning the requirement that building designs and/or materials not exceed "fair quality". *Response:* After considering all the comments, we have decided to remove the references to Marshall Swift entirely. The issue of quality is an important aspect of cost containment and is addressed in the new cost containment standards paragraph.

Privacy fences, patios and porches: Two respondents were concerned about the restriction on privacy fences, patios and porches. They felt that these items add to the livability of the unit while not costing much. *Response:* The Agency has removed this specific provision and, as discussed above, dealt with cost containment through the new cost containment standards paragraph.

Density: One comment was received supporting the density recommendations and one comment was received suggesting that we have two ranges, one for family and one for elderly. *Response:* The Agency feels that the minimum of 14 units per acre in the proposed rule provides enough latitude and has not changed this section.

H. Donated Sites

These comments refer to § 1944.215.

Several respondents were concerned that large developers would "donate" sites (raising other costs to compensate) to receive more priority points. They felt this would be unfair to the smaller, less well-financed developer. Two respondents felt that the term "others" needed to be defined. *Response:* The Agency has changed the wording to state that preference will be given for land donated by States, units of local government, public bodies and nonprofit organizations.

I. More Than One Site Within a Community

These comments refer to § 1944.215.

One respondent questioned why separate promissory notes are needed when only one mortgage is being taken. One respondent was concerned that we would allow scattered sites only when an adequate site was not available. Two respondents felt scattered sites should be allowed not only within the same community, but also within a larger area. *Response:* The Agency has considered the comments and revised the section to allow for scattered sites in different communities when a small community cannot cost effectively support a project or when 502 inventory units are involved. The reference to one adequate site and the requirement that separate promissory notes should be taken has been removed.

J. Processing Preapplications and Priority Processing System

These comments refer to § 1944.231.

Comments were received on many different aspects of this section. We will address the different aspects separately.

General Processing: Several respondents felt that a time limit should be established for the district and state office. *Response:* Processing times are addressed in Subpart A of Part 1910–A; therefore, they will not be included in Subpart A of Part 1944–E.

Priority Processing System Criteria:

Substandard Housing: One respondent wants information supplied to the states on a more regular basis. *Response:* The Agency distributes information as available and, in addition, has given States the leeway to use better and more specific local data.

Household Income: One respondent wants information supplied to the states more regularly. Two respondents felt that alternative data should be allowed for subcounty jurisdictions provided the data is available on a state-wide basis. This would allow for service to lower income areas within a higher income county. Two respondents felt that the income criteria is in direct conflict with the Tax Reform Act of 1986 and one respondent felt that the income criteria should be disposed of entirely. Those areas getting priority points are the areas that are not feasible when using tax credits. *Response:* The Agency has changed the language to allow the use of better and more specific state-wide data when available. The use of reliable data on sub-county jurisdictions is also permitted. The Agency has the responsibility to finance rural housing that will benefit the lowest income tenants possible; therefore, we are not eliminating the income element from the priority processing system.

Distance from Ineligible Areas: Several respondents were concerned that in highly populated states few projects with viable markets are far from urban areas. They proposed that the mileage criteria be eliminated. One respondent felt that sites close to suburban areas will have utilities and services which reduce project costs and will have more employment centers. They felt that this criteria is reinforcing the existing trend of giving greater priority to poorer markets, 8 to 10 unit towns. *Response:* The Agency has reviewed the comments and decided to keep the criteria, but to eliminate the new mileage distances and go back to the distances that are currently being used. Concerning the comment regarding suburban areas, the agency has the responsibility to finance projects to reach the rural, lowest income tenants possible and we will continue to strive to reach that goal.

No Existing Subsidized Housing: One respondent felt that subsidized housing should not be a criteria, and that the market study should determine the need. One respondent suggested that it be made clear that elderly and congregate housing are different types. *Response:* The Agency has made the administrative decision that it wants to reach the most communities possible and will continue to use this criteria. The language has been changed to make it clear that elderly and congregate are considered different types of housing.

Deep Rental Subsidy: One respondent recommended adding language to ensure recognition from sources other than FmHA. *Response:* The language has been changed to give priority for deep subsidy from sources other than FmHA.

Elderly Projects: Several respondents felt that 10 points place too much emphasis on elderly and that 10 points can make the difference of whether a project gets funded or not. One respondent felt that the priority discriminates against low-income families. One respondent felt that the current 5 point preference generally makes the proposal competitive enough to be reached for funding. *Response:* The Agency has reviewed this issue and administratively decided to leave the priority points at 10.

Donated Land: Several respondents felt that 10 points place too much emphasis on donated land and that large developers who could afford to donate land would have a preference.

Response: After considering the comments, the Agency has decided to reduce the priority points for donated land to 5 points. In addition, an earlier section was revised to define who can donate land, limiting donors to States, units of local government, public bodies and nonprofit organizations.

Public Bodies and nonprofit Corporations: One respondent felt that giving preference to public bodies and nonprofit corporations is unfair and unfounded. *Response:* The Agency has administratively decided that if priorities are essentially equal, preference will be given to preapplications from public bodies and nonprofit corporations.

Priority Point Implementation Date: Several respondents were wondering if "grandfathering" would take place for existing preapplications. *Response:* Normally, the implementation date of a new regulation will apply to all preapplications received after that date. Although it has not yet been determined, a cut-off date will probably be established for old preapplications to be switched over to the new priority point system if not yet funded.

K. Rental Assistance From Sources Other Than FmHA

These comments refer to § 1944.232.

Several respondents were concerned, for various reasons, about the formula included in the proposed rule. Two respondents were concerned about the special conditions for small communities. *Response:* The Agency has considered all the comments and has rewritten this section removing the formula and the restrictions for small communities.

Several respondents were concerned about the requirement that there must be a market for the project, after the rental subsidy is no longer available, for the life of the loan. *Response:* This is required by statute.

L. Related Costs

These comments refer to § 1944.212.

Three respondents felt that language should be added to permit loan funds to be used to pay loan packaging fees for nonprofit applicants. Two respondents felt that costs of market studies should be allowed as an eligible loan purpose and one respondent felt that costs of syndication should be allowed. *Response:* The costs for nonprofit packaging and market studies have been accepted as eligible loan purposes. The cost of syndication has not been adopted as an eligible loan purpose.

M. Market Surveys

Exhibit A–6, II B—One respondent felt that the regulation should state what qualifications a market analyst should have before a study is acceptable. *Response:* The regulation does state that the analyst should have housing or demographic experience.

Exhibit A–6, II B, D (i)—Several respondents have stated that public and private nonprofit organizations have the ability and experience to prepare their own market studies and market surveys. They were also concerned that the professional surveys are costly and an inhibiting factor. *Response:* FmHA has changed its regulation to allow the cost of market studies to be included as an eligible loan purpose. Therefore, the price of professionally prepared market studies will not have to be borne by nonprofit organizations but will be spread out over the life of the loan. Those organizations also will be permitted to perform their own market surveys.

Exhibit A–6, II D—One respondent suggested that adding the statement of methodology within the market study would convolute the study and wants, instead, to have the analyst present this type of information in person to the local FmHA offices. *Response:* Persons other than those in local FmHA offices also review market studies. It is not possible to personally interview the analysts and including the statement of methodology is the only practical way of following the mathematical calculations.

Exhibit A–6, II D (i)—Several respondents objected to having to employ someone outside the applicant organization to conduct surveys to determine the need for new rental units. *Response:* This requirement has been removed and now allows developers to prepare market surveys. If the need is questionable, FmHA may request that a full market study be prepared.

Exhibit A–6, II D (ii)—One respondent recommended that the word "will" be changed to "may" when addressing the need to establish feasibility for projects of less than 20 units through the use of market surveys. *Response:* The word "will" has been changed to "may."

Exhibit A–6, II D (iii)—One respondent questioned the need for a statement of truthfulness and accuracy since the market study is being prepared by a professional and that person should certify as to its accuracy. *Response:* This section refers only to market surveys, not professional market studies. Since applicants are responsible for surveys we feel they must also provide a certification.

Exhibit A–6, II G—One respondent felt that the requirement that all market analysts must be members of an association of professional market analysts failed to recognize other organizations and groups which are capable of analyzing housing markets. *Response:* This requirement has been deleted from the regulation.

Exhibit A–7—One respondent felt that the market study guidelines should require the analyst to include details of the community peculiar to the elderly population. *Response:* Language has been added to the guidelines to require the analyst to include information about the elderly population.

Exhibit A–7—One respondent suggested that FmHA maintain a list of persons who have been approved to prepare market studies. *Response:* Each state should maintain a list of those marketing firms which have provided acceptable studies in support of loan requests. The market study guidelines now inform the analyst that he or she will have to be approved in order to participate in the program. No provision has been made at this time to maintain a master list of analysts in the National Office of FmHA.

Exhibit A–7—One respondent suggested that the market analysts be required to submit references, evidence of experience, and samples to FmHA prior to completing a study. *Response:* The market study guidelines now inform the analyst that a completed sample study or a statement of qualifications will be required by FmHA before that analyst, or company, will be acceptable.

Exhibit A–7—One respondent recommended that all requests for market studies come from FmHA and not the applicant. The respondent also recommends that, after review of the study and the determination that the preapplication can be authorized, FmHA would then order a market study from an approved market analyst with the concurrence of the applicant. If the preapplication could not be authorized, FmHA would, with the concurrence of the applicant, withdraw its request for the study. The respondent further recommends that FmHA maintain an acceptable schedule or range of fees for studies. FmHA would do the contracting for the analyst with the fee being paid by the applicant. *Response:* While FmHA is at the present time moving toward contracting for some market studies, complete plans have not been worked out for implementing this course of action. The foregoing comments will be taken into consideration.

Exhibit A–7—One respondent recommended that a professionally prepared market study be required for all projects of 20 and more units. *Response:* Although the **Federal Register** refers to market "surveys" for projects of 20 units or more, it was intended that a market "study" be required for 20 or more units.

Exhibit A–7—One respondent felt that a market study should not be acceptable to FmHA if it is prepared by someone who has an identity of interest with the applicant. *Response:* FmHA carefully considered this point and rejected it because disallowing those studies could cast an appearance of distrust and suspicion on legitimate and honest market analysts. It is FmHA's opinion that disallowing the identity of interest analysts would not ensure an accurate and truthful study from other analysts. We see no reason to disallow an identity of interest in this area when we allow identity of interest relationships such as architects and contractors.

Exhibit A–7—One respondent pointed out the need for data on existing housing units. *Response:* The survey of existing rental housing form was inadvertently omitted from this publication. This omission has been corrected.

Exhibit A–7—One respondent does not feel trending incomes can be correctly accomplished by a market analyst. *Response:* The use of income data within a market area is to establish whether there are sufficient incomes to justify feasibility and to measure the economic fluctuations of the community. Changes in median income can act as a barometer in portraying the economic flexibility of a market area. A market analyst should be able to evaluate this type of data and incorporate the findings into the market study.

Exhibit A–7—One respondent felt that there was no need to include information on 1970 employment, labor, and age characteristics in a study. *Response:* We agree that some 1970 data are not necessary and have changed the guidelines to reflect this.

Exhibit A–7, I—One respondent stated that to exclude "established communities" as required by the market study guidelines would lead to an unrealistic market area. *Response:* This word "other" (other established communities) was omitted in error in the printing of the **Federal Register** notice.

Exhibit A–7, III B (3)—One respondent felt that a market study should include a discussion of vacant rental units within the market area and those within nearby communities. *Response:* The market study guidelines in the regulation now include additional language concerning the evaluation of existing vacancies within the market area. While vacancies in the entire market must be included, vacancies in other established communities outside the market area will not be considered.

Exhibit A–7, III B 5 (b)—One respondent questioned the reason an applicant would request HUD income data from a local FmHA office instead of from a local HUD office. *Response:* This income information was furnished to local FmHA offices to assist the preparers of market studies with obtaining the needed data. Income information may also be obtained from Sales and Marketing Management Magazine.

Exhibit A–8, (5)—One respondent objected to FmHA's requirement that a new market study be obtained after the study is more than 12 months old. *Response:* Even though census data will not change within that time, changes in local housing and employment conditions certainly may. For that reason, FmHA requires updated information to supplement the material contained in a market study.

One respondent asked if a market study is an eligible loan purpose. *Response:* The new regulation will allow the cost of a market study to be included as an eligible loan purpose.

N. Exhibit A–6

Test for Other Credit—One respondent felt that FmHA should delete the requirement that applicants must explain why other lenders are not willing to extend credit. *Response:* We agree and have removed this requirement.

Environmental Impact—One respondent pointed out that we requested a duplication of environmental information. *Response:* We agree and have removed this duplication.

Measuring Square Footage—One respondent felt that we should not measure square footage from the outside walls. *Response:* We agree and have removed this requirement.

Cost Overruns—One respondent felt that applicants should not have to sign a statement agreeing to pay all cost overruns. *Response:* We have considered this and do not agree. In addition, the law requires that this statement be signed.

Competitive Bidding—One respondent felt that competitive bidding requirements are too strict and that Subpart A of Part 1924 requirements for exception to competitive bidding are very difficult. *Response:* We considered this comment and feel that the exception authority in Subpart A of Part 1924 is appropriate. We are not changing this section.

O. Other Comments

Section 1944.205—One respondent suggested that our definition of handicapped and disabled persons should be changed to better reflect reality and to remove the discrimination. *Response:* This definition is used in other regulations and cannot be changed only in the 515 rural rental housing regulation. We feel the respondent has made some valid points and we will consider the change in a future revision.

Section 1944.211—One respondent recommended that the eligibility criteria requiring that the applicant have the ability to maintain and operate the project for the purposes for which the loan was made be strengthened. *Response:* The Agency has decided that the criteria achieves the intended purpose as is and will not be changed.

Section 1944.211—One respondent felt that restricting long-term leasing of privately owned land to areas where it is a well established practice is too restrictive and that removing the requirement could make the program more flexible. *Response:* The Agency agrees with the suggestion and has changed the wording.

Section 1944.211—One respondent felt that we should not allow the return of the initial 2 percent operating capital because borrowers defer expenses and shield the 2 percent. One respondent felt that the borrower should be able to have the 2 percent returned even after 5 years. *Response:* The Agency has considered both comments and determined that no change will be made.

Section 1944.211—Two respondents felt that the section stating that borrowers or principals of borrower organizations who sell or transfer loans less than five years old will not be considered for participation in the program for at least five years is only punitive in nature and should be eliminated. *Response:* The Agency has determined that no change will be made.

Section 1944.212—One respondent felt the requirement that rehabilitated housing be substantially equivalent to new construction in quality, livability, design and all other respects can be interpreted too literally. *Response:* The Agency agrees and has changed the wording.

Section 1944.212—One respondent felt that the language requiring that rehabilitation costs be equal to or less than new construction is too rigid. They felt that exceptions should be made when the project is on farmland at the edge of town and when other subsidies are used. They also felt that the term "area" should be clarified. *Response:* The Agency has removed this requirement; however, the Agency feels that the definition of community is adequate and is not further clarifying "area".

Section 1944.212—Two respondents recommended that we allow loan funds to be used to purchase land from an applicant. One respondent felt that the wording should be clarified. *Response:* After reviewing the comments the Agency has decided not to change this section.

Section 1944.212—One respondent felt that related facilities such as tot lots create major liability problems for borrowers and that they should have the discretion to choose whether to provide the facilities. The respondent also was concerned that this section made no reference to laundry rooms. One respondent was concerned that we required related facilities such as stoves and refrigerators in central cooking facilities to be attached to the real estate. *Response:* The Agency has not changed its requirement to provide tot lots in family projects. We feel this is an important part of a family project. Laundry rooms are addressed in another part of the text. In congregate projects where there are central cooking facilities, we feel that the stoves, refrigerators, etc. should be attached to prevent easy removal.

Section 1944.212—One respondent felt that language should be clarified to allow interest on multiple advances to be part of the loan. *Response:* The Agency has determined that a change will not be made. We feel the language is clear in stating that interest will be capitalized when construction is substantially complete and the project is ready for occupancy.

Section 1944.212—One respondent felt that it should be made clear that loan funds can be used for interest and customary charges necessary to obtain interim financing. *Response:* The Agency agrees and has changed the wording.

Section 1944.213—One respondent pointed out that one section in loan limitations required rental leases to be for not less than 30 days and that this conflicts with proposed rule FmHA Instruction 1930-C. *Response:* This section has been revised to be consistent with FmHA Instruction 1930-C.

Section 1944.213—One respondent felt that FmHA should broaden the instances under which we will finance partially completed projects. *Response:* The Agency has considered the comments and finds merit in them. They will be considered in a subsequent FmHA regulation revision.

Section 1944.215—Two respondents felt that we should require master metering instead of individual because tenants would not have to pay deposits for the services, rates are generally less and construction cost would be reduced because an outside water loop would not be needed. *Response:* After reviewing these comments the Agency has decided to continue with individual metering.

Section 1944.215—One respondent was concerned about requiring a market survey completed by a local or State government agency or by independent organizations serving handicapped people in order to modify the percentage of handicapped units. *Response:* The market survey requirement has been removed.

Section 1944.215—Two comments were received suggesting that we allow appraisals to be done by FmHA employees authorized to make appraisals and by contract appraisers. *Response:* Language has been added allowing for contract appraisers.

Section 1944.221—One respondent suggested that when bonds are used in lieu of promissory notes submission to the National Office and OGC is not necessary. *Response:* The Agency's experience dictates that this requirement is needed, especially in some states. We will be keeping this requirement.

Section 1944.221—Two respondents suggested that the requirement for personal liability be removed for all types of entities. *Response:* The Agency has considered this recommendation and decided not to change our requirements.

Section 1944.231—One comment was received suggesting that FmHa set timetables for itself, as well as for the applicant, after issuance of an AD–622. *Response:* The Agency has not changed this section.

Section 1944.235—One respondent felt that obligations should be allowed to be transferred when there is a change from profit to nonprofit applicant. *Response:* Our legal advisors have said that we cannot transfer obligations when entity types change.

Section 1944.240—One respondent felt that applicants and/or advocates should be able to request exception authority directly from FmHA's Administrator. *Response:* The Agency does not agree with this suggestion and has not changed the wording to allow applicants and/or advocates to request exception authority from the Administrator.

Section 1944.215—One respondent felt that the refinancing requirement is unnecessary when considering percent and proposed prepayment regulations. *Response:* The Agency has not changed this section.

One respondent asked us to define "builder's fee". *Response:* This reference has been removed and readers are referred to Subpart A of Part 1924.

Section 1944.215—One respondent felt the requirement that the housing be designed to meet the needs of the types of occupants who will likely occupy it is in conflict with Subpart C of Part 1930 which allows elderly to occupy family units. *Response:* This has not been changed. The units should still be designed for the type of occupant most likely to live in it.

One respondent was concerned that the proposed rule did not contain an exhibit for rural cooperative housing. *Response:* Regulations governing rural cooperative housing are being worked on under a separate revision and will be published at a later date.

Section 1944.212—One respondent felt that Section 514, as weil as Section 502, housing should be allowed to be converted to rental housing. *Response:* The statute specifically refers to Section 502 being converted to Section 515 so no change will be made.

Exhibit A, paragraph IV, B, 4—One respondent felt that the marketing of units should be in accordance with the AFHMP and public advertising. Other methods should not be permitted. *Response:* We agree and have changed the paragraph.

Finally, the Agency received several comments of an editorial nature. We have evaluated these comments and have made changes in the Final Rule as appropriate.

Typographical errors noted in the Proposed Rule have been corrected.

List of Subjects

7 CFR Part 1924

Agriculture, Construction and repair

7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant Programs—Housing and community development, Loan programs—Housing and community development, Low and moderate housing—Rental, reporting requirements

7 CFR Part 1933

Grant programs—Housing and community development

7 CFR Part 1944

Administrative practice and procedure, Aged, handicapped loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Nonprofit organizations, Rent subsidies, and Rural housing.

7 CFR Part 1951

Account servicing.

7 CFR Part 1965

Administrative practice and procedure.

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

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for Part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Planning and Performing Construction and Other Development

2. § 1924.13 (e)(1)(iv), (e)(1)(vi)(A), and (e)(2)(ix)(A) are revised to read as follows:

§ 1924.13 Supplemental requirements for more complex construction

* * * * *

(e) * * *

(1) * * *

(iv) *Contract cost breakdown.* In any case where the loan approval official feels it appropriate, and prior to the award or approval of any contract in which there is an identity of interest as defined in § 1924.4 (i) of this subpart, the contractor and any subcontractor, material supplier or equipment lessor sharing an identity of interest must provide the applicant and FmHA with a trade-item cost breakdown of the proposed contract amount for evaluation. The cost of any surety as required by § 1944.222 (h) and (i) of Subpart E of Part 1944 of this chapter and § 1924.6 (a)(3) of this subpart, or cost certification fee will be included in the proposed contract amount. Form FmHA 1924–13, which is available in all FmHA offices, may be used for this purpose.

* * * * *

(vi) * * *

(A) If interim financing is available at reasonable rates and terms for the construction period, such financing shall be obtained. Exhibit B of Subpart E of Part 1944 of this chapter shall be used to inform the interim lender that FmHA will not close its loan until the project is substantially complete, ready for occupancy, evidence is furnished indicating that all bills have been paid or will be paid at loan closing for work completed on the project, all inspections have been completed and all required approvals have been obtained from municipal and governmental authorities having jurisdiction over the project.

Upon presentation of proper partial payment estimates approved by the applicant and accepted by FmHA, the interim lender may advance construction funds in accordance with the payment terms of the contract. It is suggested that partial payments not exceed 90 percent of the value of work in place and materials suitably stored on site.

* * * * *

(2) * * *

(ix) * * *

(A) If interim financing is available at reasonable rates and terms for the construction period, such financing shall be obtained. Exhibit B of Subpart E of Part 1944 of this chapter shall be used to inform the interim lender that FmHA will not close its loan until the project is complete, ready for occupancy, evidence is furnished indicating that all bills have been paid for work completed on the

project, all inspections have been completed and all required approvals have been obtained from any governmental authorities having jurisdiction over the project. Upon presentation of proper partial payment estimates containing an estimate of the value of work in place which has been prepared and executed by the owner-builder, certified by the applicant's architect, and accepted by FmHA, the interim lender may advance construction funds in accordance with the provisions of this section. It is suggested that the partial payment not exceed 90 percent of the value of work in place and material suitably stored on site.

* * * * *

3. Exhibit J to Subpart A of Part 1924 is amended by revising the definition for related facilities in Part A, paragraph III and revising Part B, paragraph IV C 1 to read as follows:

Exhibit J—Manufactured Home Sites, Rental Projects and Subdivisions: Development, Installation and Set-up

* * * * *

Part A * * *

III. Definitions. * * *

Related Facilities. Any nonresidential structure or building used for rental housing related purposes.

* * * * *

Part B * * *

IV. * * *

C. * * *

1. This includes those facilities as defined in § 1944.212(e) of Subpart E of Part 1944 of this chapter.

* * * * *

PART 1930—GENERAL

4. The authority citation for Part 1930 continues to read as follows:

Authority. 42 U.S.C. 1480; 7 CFR 223; 7 CFR 2.70

5. § 1930.102(h) is revised to read as follows:

§ 1930.102 Definitions.

* * * * *

(h) *Project.* A project is the total number of rental housing units that are operated under one management plan with one loan agreement/resolution. The rental units may have been developed originally with separate initial loans and separate loan agreements/resolutions, now consolidated into one operational project under § 1965.68 of Subpart B of Part 1965 of this chapter.

* * * * *

6. § 1930.141 (e) is revised to read as follows:

§ 1930.141 Materials to be provided borrower/applicant.

* * * * *

(e) Exhibits H and H–1 of this subpart.

* * * * *

7. Exhibit B Subpart C of Part 1930 is amended by redesignating paragraphs II AA through II LL as II CC through II NN respectively, II Z as II AA and II Y as II Z; and by adding new paragraphs II Y and II BB and revising new paragraph II CC and paragraphs IV A introductory text, IV A 2 e, IV C and V E 1 introductory text to read as follows:

Exhibit B of Subpart C—Multiple Housing Management Handbook

* * * * *

II. *Definitions.* * * *

Y. *Nonprofit Corporation.* A corporation which (1) is organized and operated for purposes other than making gains or profits for the corporation or its members; (2) is legally precluded from distributing to its members any gains or profits during its existence; and (3) in the event of its dissolution, is legally bound to transfer its net assets to a nonprofit corporation of a similar type or to a municipal corporation which will operate the housing for the same or similar purposes.

* * * * *

BB. *Profit Basis.* An individual or organization applicant who will operate the housing at rental rates low- and moderate-income persons, senior citizens and handicapped persons can afford, and whose return on their initial investment will not be limited to a certain percentage per year.

CC. *Project.* A project is the total number of rental housing units that are operated under one management plan with one loan agreement/resolution. The rental units may have been developed originally with separate initial loans and separate loan agreements/resolutions, now consolidated into one operational project according to § 1965.68 of Subpart B of Part 1965 of this chapter.

* * * * *

IV. * * *

A. *FmHA Interest Credit—RRH and RCH Loans.* Regulations are contained in Exhibit H to this subpart and include:

* * * * *

2. * * *

e. RRH borrowers whose loans were approved on or after August 1, 1968, may convert from Plan I to Plan II. When they are presently a full profit operation, they may convert to Plan II by executing a new or amended loan resolution or loan agreement and an interest credit agreement according to Exhibit H of this subpart.

* * * * *

C. *Department of Housing and Urban Development (HUD)—Section 8 Housing Assistance Payments Program.* This subsidy program is administered by HUD or the local public housing agency. Projects operating under the Memorandum of Understanding between FmHA and HUD will also be subject to the requirements of the Housing Assistance Payments (HAP) Contract executed by the borrower. Projects accepting tenants utilizing Section 8 assistance assigned by a local public housing agency will also comply with any requirements imposed by such agency. However, in all cases, tenants receiving Section 8 assistance must meet the eligibility requirements specified in paragraph VI B of this Exhibit. Requirements that conflict with FmHA requirements should be referred to the District Director for guidance. (Generally, the most restrictive HUD or FmHA requirements or limitations will apply.)

* * * * *

V. * * *

E. * * *

1. *Calculation of rental rate for site manager or caretaker.* The rental rate for the unit occupied by the site manager or caretaker will always be reflected in the project budget the same as the cost for other non-revenue producing portions of the project. When the unit for the site manager or caretaker was authorized by the State Director according to the requirements of § 1944.212 (f) of Subpart E of Part 1944, the unit may or may not be designated as part of the non-revenue producing facilities. This determination will be reflected in the project's management plan. The rental rate will then be determined as follows:

* * * * *

Exhibit B–8 of Subpart C—Miscellaneous Reports or Submittals

8. Exhibit B–8 to Subpart C of Part 1930 is amended under the column headed "Examples and notes" by removing the reference, "Exhibit C to Subpart E, Part 1944" and inserting in its place, "Exhibit E to Subpart C, Part 1930".

9. Exhibit C to Subpart C of Part 1930 is amended by revising paragraphs V B 1 b, V B 2 c and V B 2 d to read as follows:

Exhibit C of Subpart C—Rent Changes

* * * * *

V. * * *

B. * * *

1. * * *

b. When the borrower's project is operated on a profit basis and the purpose of the rent change is for: Justified operating and maintenance expense; funding the reserve account; other project expenses; providing or maintaining a profit, the change may be allowed as long as eligible tenants can afford the new rental rate.

2. * * *

c. The borrower's project is operated on a profit basis and the proposed rent change is for purposes other than meeting operation and maintenance expenses and debt service; i.e., the purpose is to allow excessive profits and the proposed rent change will result in rental rates in excess of what eligible tenants can afford.

d. The State Director is able to provide RA to the project and the borrower's project is operated on either a nonprofit basis or limited profit basis as defined in § 1944.205 of Subpart E of Part 1944; but the borrower has not applied for RA within the most recent

period of 180 days prior to the rent change request.

* * * * *

10. Exhibit E to Subpart C of Part 1930 is amended by revising paragraphs I and II B 1 b to read as follows:

Exhibit E of Subpart C—Rental Assistance Program

I. *General.* The objective of the rental assistance (RA) program is to reduce rents paid by low-income households. This Exhibit sets forth the policies and procedures and delegates authority under which RA will be extended to eligible tenants occupying eligible Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) projects financed by FmHA. This Exhibit also applies to Farm Labor Housing (LH) projects when the borrower is a broadly-based nonprofit organization, nonprofit organization of farmworkers, or a State or local public Agency. RA will supplement the benefits available to tenants under the interest credit program outlined in Exhibit H of this Subpart.

II. *Definitions.* * * *

B. * * *

1. * * *

b. RRH insured loan to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate the housing on a lmited profit basis as defined in § 1944.205 of Subpart E to Part 1944 of this chapter, or

11. Exhibit H is added to Subpart C of Part 1930 to read as follows:

Exhibit H of Subpart C—Interest Credits on Insured RRH and RCH Loans

Interest Credits on Insured RRH and RCH Loans

I. *Purpose:* This Exhibit outlines the policies and conditions under which interest credits will be made on insured rural rental housing (RRH) and rural cooperative housing (RCH) loans.

II. *Definitions:* As used in this Exhibit:

A. *Interest Credit* is the amount of assistance the Farmers Home Administration (FmHA) may give a borrower toward making its payments on an insured RRH or RCH loan.

B. *Interest Credit and Rental Assistance Agreement* is an agreement between FmHA and the borrower providing for interest credits and/or rental assistance for RRH or RCH loans. This agreement will be on Form FmHA 1944–7, "Multiple Family Housing Interest Credit and Rental Assistance Agreement."

C. *Project* is the total number of rental housing units that are operated under one management plan with one loan agreement/resolution.

D. *Basic Rental* means a unit rental charge determined on the basis of operating the project with payments of principal and interest on a loan to be repaid over a 30-year or longer period at 1 percent per annum.

E. *Market Rental* is a unit rental charge determined on the basis of operating the project with the payments of interest which the borrower is obligated to pay under the terms of the promissory note.

F. *Overage* is the amount by which total rental payments paid or to be paid by the tenants of a project exceed the total basic monthly charge.

G. *Surcharge* is 25 percent of the established rent in a Plan I project which is added to the rent of an ineligible tenant.

III. *Eligibility:* Borrowers may receive interest credits provided the loan (1) was made on or after August 1, 1968, to a nonprofit corporation, consumer cooperative, State or local public agency, or to any individual or organization operating on a limited profit basis; (2) is repaid over a period of 30 years or more; and (3) meets the other requirements of this exhibit subject to the following limitations:

A. Plan I will be only to broadly based nonprofit corporations and consumer cooperatives. Except for subsequent loans to projects approved before August 1, 1968, Plan I interest credit will no longer be available for new loans after October 27, 1980. All borrowers operating on Plan I as of October 27, 1980, may continue operating under it according to the applicable requirements of this exhibit and of this subpart.

B. Plan II will be available to broadly based nonprofit corporations, State or local public agencies, or to profit organizations and individuals operating on a limited profit basis.

IV. *Options of Borrowers:* An eligible borrower operating under Plan I or Plan II, as described below, will determine interest credits on its loan in the respective manner indicated:

A. *Plan I.*

1. Borrowers operating under this plan must agree to limit occupancy of the housing to very low- or low-income nonelderly and very low-, low- and moderate-income elderly, disabled or handicapped persons.

2. A borrower under Plan I generally must:

a. Determine that there is a firm market and continuing demand for rental housing by persons within the applicable income limits.

b. Prepare a budget on the basis of a 3 percent loan.

c. Determine rentals to be charged.

B. *Plan II.*

1. Borrowers operating under this plan must agree to limit occupancy of the housing to households, including elderly, disabled and handicapped persons of very low, low and moderate incomes. Under Plan II, interest credits are based on the cost of operating the project and the size and income of the household.

2. A borrower under Plan II generally must:

a. Prepare two budgets, one on the basis of a 1 percent interest rate loan to determine basic rental, and a second budget on the basis of a loan at the interest rate shown in the promissory note to determine market rental.

b. Determine both basic rental and market rental for the different units based on the two budgets. (See Exhibit H–1.)

c. Determine adjusted personal income of each tenant and have each tenant complete Form FmHA 1944–8, "Tennant Certification." Determine the monthly rent to be paid by each tenant household.

d. Determine the required monthly payment on the loan at 1 percent interest plus overage for the month for the total units developed with any one loan. The amount of payment will be computed separately for each loan using Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance."

V. Determining The Amount of Payment:

A. *For Plan I.* The amount of payment will be determined by using the amortization factor for a payment at a 3 percent interest rate (use the same number of years that was used for computing the regular installment on the note) plus all surcharges.

B. *For Plan II.* The amount of payment will be determined by using the amortization factor for a payment at a 1 percent interest rate (use the same number of years that was used for computing the regular installment on the note) plus all overage.

VI. Special Conditions:

A. *Leases.* Borrowers participating in the interest credit program must have an FmHA approved lease with the assisted household. Leases must comply with the requirements of paragraph VIII of Exhibit B to this subpart.

B. *Rental Surcharges to Ineligible Tenants.* If a unit is rented in accordance with the provisions of paragraph VI A of this exhibit to a tenant who is ineligible because the income exceeds the maximum income limits, the ineligible tenant will:

1. Under Plan I, be charged a 25 percent rental surcharge. To illustrate, if the unit normally rents for $60 per month, this ineligible tenant would pay $75 per month. The 25 percent surcharge, or $15 in this illustration, would be paid on the account and would be included with, but in addition to, the regular payment on the loan.

2. Under Plan II, be charged the market rental.

C. *Vacancies.* When all construction is not completed but some units are ready for occupancy and the contractor consents in writing to permit occupancy, the State Director may authorize the rental of those completed units to eligible tenants at the rent they would be paying should the FmHA loan be closed. A prerent-up conference is required. All income generated must be deposited in the General Operating Account and used for management and operation of the units.

D. *Interest Credit for Projects Under the Department of Housing and Urban Development (HUD) Housing Assistance Payment Program or FmHA Rental Assistance.* When rental units in an RRH project are leased under the Section 8 program, Form HUD 50059, "Certification and Recertification of Tenant Eligibility," will be completed for new construction. Borrowers with projects authorized to utilize rental assistance will complete Form FmHA 1944–7 in accordance with Exhibit E to Subpart C of Part 1930.

E. *Special Cases.* Situations not covered by this Exhibit or Exhibit E to this subpart, will be handled on an individual basis with instructions from the National Office.

F. *Understanding Eligibility.* The borrower should understand the eligibility requirements for occupancy of the housing. Instructions for tenant eligibility are in paragraph VI B of Exhibit B to this subpart.

VII. Execution of Agreements:

A. *Interest Credit and Rental Assistance Agreement.*

1. *Multiple Advance Loans.* Interest credit may become effective the first day of the month following substantial completion of construction when the project is ready for full operation, which is the AED. When the District Director determines that the project is ready for full operation, the borrower and the District Director should execute Form FmHA 1944–7. A separate Form FmHA 1944–7 will be executed for each loan on the project.

2. *Interim Financing and Servicing.* Effective dates for interim financed loans and servicing action will be according to the FMI for Form FmHA 1944–7.

B. *Change in Interest Credit Plan.* A borrower under Plan I may change, if it can meet the requirements of the other plan, by executing a new Interest Credit and Rental Assistance Agreement.

C. *Borrowers Who Are Not Receiving Interest Credit.* If an eligible borrower did not execute a Form FmHA 1944–7 according to paragraph VII A of this Exhibit, interest credit may be instituted at any time during the life of the loan provided the borrower agrees to the requirements of Form FmHA 1944–7 and this Exhibit. When Form FmHA 1944–7 is executed, it will be effective for the next monthly payment due.

VIII. *Tenant Certification:* Tenant certification and recertification for interest credit borrowers will be performed in accordance with paragraph VII of Exhibit B to this subpart.

IX. *Loan Payments:* With each payment made, the borrower will complete Form FmHA 1944–29. The FmHA representative handling the transmittal to the Finance Office will complete Form FmHA 1944–9, "Multiple Family Housing Certification and Payment Transmittal." The forms will be executed in accordance with the requirements of the Forms Manual Insert. The transmittal of these will be handled in accordance with FmHA Instruction 1951–B.

A. *Plan I.*

1. The borrower will make monthly payments in an amount necessary to repay the loan as if the loan carried a 3 percent interest rate. When a rental surcharge is collected as described in paragraph VI B of this exhibit, the surcharge will be included and will be credited as interest to the account as a regular payment. The special handling of payments involving rental surcharges is explained in paragraph IX A 2 of this exhibit.

2. When a payment is made for any month that involves a rental surcharge, Forms FmHA 1944–29 and FmHA 1944–9 will be completed with the amount of the surcharge being inserted in the spaces provided. These forms will be completed and the amount shown and transmitted regardless of whether the surcharge is actually collected by the borrower.

B. *Plan II:* The borrower will make monthly payments as though the note was written at a 1 percent interest note plus any overage due and payable whether or not collected from the tenant.

X. *Servicing:* Any unusual case that cannot be serviced in accordance with this Exhibit should be submitted to the National Office with the State Director's recommendations.

12. Exhibit H–1 is added to Subpart C of Part 1930 to read as follows:

Exhibit H–1 of Subpart C—Example of Interest Credit Determination for RRH or RCH Projects (Plan II)

$100,000 RRH LOAN—APPROVED DURING 1972 FISCAL YEAR, PROJECT CONTAINS FOUR 1-Bedroom Units (600 SQ. FT. EACH) AND FOUR 2-BEDROOM UNITS (700 SQ. FT. EACH)

Budget for market rent		Budget for basic rent [a]	
Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable.	$5,277	Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable.	$5,277
Loan repayment at 9% interest		Loan repayment at 1% interest	
$100 M×$91.23 [b]	9,123	$100 M×$25.52 [b]	2,552
Total annual cost	$14,400	Total annual cost	$7,829
One bedroom rent:		One bedroom rent:	
600/5200=.11538×1200=138.46		600/5200=.11538×652=75.23	
Two bedroom rent:		Two bedroom rent:	
700/5200=.13462×1200=161.54		700/5200=.13462×87.77	
(138.46×4)+(161.54×4)=$1,200 monthly income		(75.23×4)=(87.77×4)=$692 monthly income	
$14,440÷12=$1200* cost/mo.		$7829÷12=$652* cost/mo.	

[a] Two complete and accurate budgets must be prepared, one for the market rent and one for the basic rent. (The expense items in the budgets shown in this illustration are only for illustration purposes and are not itemized.)

[b] Factor for 50 years. If the regular installment on the note was amortized using a factor for less than 50 years, substitute the appropriate factor for a corresponding number of years.

* Rounded to the nearest dollar.

* * * * *

13. Exhibit I is added to Subpart C of Part 1930 to read as follows:

Exhibit I of Subpart C—RRH Loans and the HUD Section 8 Housing Assistance Payments Program (Existing Units)

I. *General.* This exhibit contains the policies and procedures that will be followed by the Farmers Home Administration (FmHA) to permit the utilization of *existing Section 515 rural rental housing (RRH) units* for leasing under the Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program.

II. *Applicability.* All FmHA RRH borrowers are authorized to utilize the procedure outlined in this Exhibit and the HUD Section 8 Housing Assistance Payments Program for existing housing as outlined in HUD's regulations 24 CFR Part 882 (as amended). To promote the use of the Section 8 Housing Assistance Payments Program with existing projects, the following action should be taken:

A. District Directors should inform all RRH borrowers operating in the area of their jurisidiction of the contents of this Exhibit.

B. The HUD Section 8 program could benefit any eligible tenant in an RRH project who is paying more than 30 percent of its income for rent. Therefore, RRH borrowers should advise tenants who are paying more than 30 percent of their adjusted income for housing of the possibility of obtaining Section 8 housing assistance payments. *Section 8 assistance for existing housing is administered by local housing agencies* authorized by HUD to administer the program in the area. In areas where no housing agency has been established to administer the program, interested citizens and the local government may wish to establish such an agency.

III. FmHA Policies Concerning Rental Rates and Payments.

A. Under the Section 8 Housing Assistance Payments Program, HUD will pay that portion of the tenant's rent including utility allowance in excess of 30 percent of the household's income. The contract rent to be established under the HUD Section 8 program will be as follows: (1) For borrowers with a 3 percent direct RRH loan and borrowers operating in accordance with interest credit Plan I, the contract rent will be the market rental rate for the units as determined by the current approved annual budget using a 3 percent amortization factor for principal and interest payments; (2) for borrowers operating without interest credit, the contract rent will be the market rental rate for the unit as determined by the current approved annual budget using the amortization factor for the note rate of interest for principal and

interest payments; (3) for borrowers operating in accordance with interest credit Plan II, the contract rent will be the basic rental rate as determined by the current approved annual budget using a 1 percent interest amortization factor for principal and interest payments.

B. This method of calculation and transmittal of the scheduled payment to the Finance Office will be in accordance with Exhibit H of this subpart.

IV. Responsibilities.

A. *Household.* A household must obtain a Certificate of Family Participation to obtain Section 8 assistance. A household receiving housing assistance under the Section 8 program will be responsible for fulfilling all of its obligations under the Certificate of Family Participation issued to it by the Public Housing Agency (PHA) and under the lease with the owner.

B. *Owner (FmHA Borrower).* The owner, upon being presented a Certificate of Family Participation, shall contact and enter into a Housing Assistance Payments Contract with the PHA and a lease with the tenant. Owners shall be responsbile (and subject to review or audit by the PHA or HUD) for performing all of their obligations under the contract and lease.

C. *FmHA.*

1. FmHA, in accordance with existing regulations, will be responsible for normal loan servicing and supervision, including but not limited to:

a. Obtaining and reviewing all reports from the borrower in accordance with Subpart G of Part 1802 of this chapter (FmHA Instruction 430.2).

b. Review and approval of budgets and rental rates.

c. Collection of required payments and review of the borrower's establishment and maintenance of required accounts.

2. FmHA will not be responsible for the requirements and conditions of the contract entered into between the PHA and the owner but will cooperate with HUD and the PHA to the extent possible to assure that the borrower carries out all obligations under the contract.

V. Special Conditions.

A. *Eligibility.*

1. The PHA will determine a household's eligibility before the Certificate of Family Participation is issued. To be eligible for Section 8 assistance, the household's income as determined by HUD may not exceed 80 percent of the median income for the area. The household's eligibility for housing assistance payments under the Section 8 program will continue until the amount payable by the household equals or is greater than the gross rental rate. However, when 30 percent of the household's income equals or is greater than the gross rental rate charged for the unit, the household may still be able to occupy a rental unit under FmHA interest credit program if 30 percent of the family's income is greater than the lowest established rental rate for the unit.

2. Form FmHA 1944–8, "Tenant Certification," will not be required for tenants who have obtained a Certificate of Household Participation from the PHA. A copy of the Certificate of Household Participation will, however, be provided to the FmHA District Director.

3. The tenant's adjusted household income must not exceed the maximum income limitations as authorized by FmHA for the project.

B. *Security deposits.* According to HUD regulations, the owner may require a household to pay a security deposit. The maximum amount will be the greater of the amount of rent payable by the household towards one month's total tenant payment or $50. Under HUD regulations, if a household vacates a unit and the security deposit is insufficient, the owner may claim reimbursement from the PHA in an amount not to exceed one month's contract rent.

C. *Payment for vacated units.* According to HUD regulations, if a household vacates the unit in violation of the provisions of the lease, the owner may receive the full housing assistance payments for the month in which the family vacates and then in the amount of 80 percent of the contract rent for a vacancy period not exceeding an additional month or the expiration or other termination of the lease, whichever comes first.

D. *Limitation of owner's participation in the program.* HUD's regulations provide that assistance under Section 8 will not exceed 40 percent of the total number of units in the project; however, this limitation may be exceeded for the purpose of relieving hardship of a particular household or households with the approval of the HUD field office.

E. *Special problems.* Any problems on utilizing the HUD Section 8 program for existing RRH projects not covered by this Exhibit should be referred to the National Office by the State Director.

PART 1933—LOAN AND GRANT PROGRAM (GROUP)

14. The authority citation for Part 1933 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart I—Self-Help Technical Assistance Grants

15. § 1933.404 (a)(4)(iii) is revised to read as follows:

§ 1933.404 Eligibility

* * * * *

(a) * * *

(4) * * *

(iii) Adopt, if it is being newly organized, Articles of Incorporation and Bylaws that generally conform to Exhibits C and D of Part 1944 of Subpart E which are available in FmHA offices, with changes appropriate to include the purposes and powers of an eligible applicant under this Subpart. The Office of the General Counsel (OGC) should be requested by FmHA to review and adopt the exhibits for use in the respective States.

* * * * *

16. § 1933.416 (b) is revised to read as follows:

§ 1933.416 Approval and closing.

* * * * *

(b) *Approval of grant.* Follow the provisions of § 1944.246 (b)(1) and (2) (available in any FmHA office) of Subpart E of Part 1944 of this chapter.

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PART 1944—HOUSING

17. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

18. Subpart E of Part 1944 is revised to read as follows:

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

Sec.

1944.201 General.
1944.202 Objective.
1944.203 1944.204 [Reserved]
1944.205 Definitions.
1944.206 1944.210 [Reserved]
1944.211 Eligibility requirements.
1944.212 Loan purposes.
1944.213 Limitations.
1944.214 Rates and terms.
1944.215 Special conditions.
1944.216–1944.220 [Reserved]
1944.221 Security.
1944.222 Technical, legal and other services.
1944.223 Supplemental requirements for manufactured home rental project development.
1944.224–1944.230 [Reserved]
1944.231 Processing preapplications.
1944.232 Rental assistance (RA) from sources other than FmHA.
1944.233–1944.234 [Reserved]
1944.235 Actions subsequent to loan approval.
1944.236 Loan closing.
1944.237 Subsequent RRH loans.
1944.238 [Reserved]
1944.239 Complaints regarding discrimination in use and occupancy of RRH.
1944.240 Exception authority.
1944.241–1944.249 [Reserved]
1944.250 OMB control number.
Exhibit A of Subpart E—How to Bring Rental Housing to Your Town.
Exhibit B of Subpart E—Guide Letter for use in Informing Interim Lender of FmHA's Commitment
Exhibit C of Subpart E—Articles of Incorportion (Not for Profit)
Exhibit D of Subpart E—Bylaws

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1944.201 General.

This subpart sets forth the policies and procedures and delegates authority for making Rural Rental Housing (RRH) loans under Sections 515 and 521 of the Housing Act of 1949.

§ 1944.202 Objective.

The basic objective of RRH loans is to provide eligible tenants with economically designed and constructed rental housing and related facilities suited to their living requirements.

§ 1944.203–1944.204 [Reserved]

§ 1944.205 Definitions.

(a) *Amortization effective date (AED).* A date established by the accounting system on which advanced principal and any accrued interest is combined and amortized to establish a schedule of payments. This date is always the first day of a month.

(b) *Board and directors.* The governing body and members of the governing body of an organization.

(c) *Community.* Cities, towns, boroughs, villages and unincorporated places which have the characteristics of an incorporated area and are easily identifiable as established concentrations of inhabited dwellings located in rural areas as defined in § 1944.10 of Subpart A of Part 1944 of this chapter.

(d) *Congregate housing.* Housing that affords an assisted independent living environment that offers the elderly, handicapped or disabled, person who may be functionally impaired or socially deprived, but in good health (not acutely physically ill), the residential accommodations, central dining facilities, related facilities, and support service(s) required to achieve, maintain, or return to a semi-independent lifestyle and prevent premature or unnecessary institutionalization as he/she grows older.

(e) *Consumer cooperative.* A corporation which:

(1) Is organized as a cooperative;

(2) Will operate the housing on a nonprofit basis solely for the benefit of the occupants; and

(3) Is legally precluded from distributing, during the life of the loan, any gains or profits from operation of the housing. For this purpose, any patronage refunds to occupants of the housing would not be considered gains or profits. A consumer cooperative may accept nonmembers as well as members for occupancy of the housing.

(f) *Dealer-contractor.* A person, firm, partnership or corporation in the business of selling and servicing manufactured homes and developing sites for manufactured homes for persons who purchase such homes for purposes other than resale. Dealer-contractors will be qualified as shown in paragraphs IX and X of Exhibit F of Subpart A of Part 1944 of this chapter, except all processing will be handled by the District Director rather than the County Supervisor.

(g) *Development cost.* The cost of constructing, purchasing, improving, altering, or repairing housing and related facilities and the value or cost of purchasing and improving the necessary land. Costs that can be paid for with RRH loan funds are detailed in § 1944.212 of this subpart.

(h) *Elderly, handicapped or disabled person.* A person who is at least 62 years old. The term elderly (senior citizen) also means persons with the following handicap or disabilities, regardless of age:

(1) *Handicapped.*

(i) Inability to enage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which:

(A) Has lasted or can be expected to last for a continuous period of not less than 12 months; or which can be expected to result in death;

(B) Substantially impedes the ability to live independently; and

(C) Is of such a nature that such ability could be improved by more suitable housing conditions.

(ii) In the case of a blind person who is at least 55 years old (within the meaning of "blindness" as determined in Section 223 of the Social Security Act), and who is unable because of the blindness to engage in substantially gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity over a substantial period of time.

(2) *Disabled.* In the case of developmental disability, a person with a severe, chronic disability which:

(i) Is attributable to a mental or physical impairment or combination of mental or physical impairment;

(ii) Is manifested before the person attains age 22;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self care,

(B) Receptive and expressive language,

(C) Learning,

(D) Mobility,

(E) Self-direction,

(F) Capacity for independent living,

(G) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care or treatment, or for other services which are of lifelong or extended duration and are individually planned and coordinated.

(i) *Elderly household.* A household where the tenant or co-tenant is at least 62 years of age, handicapped, or disabled as defined in § 1944.205(h) of this subpart. An elderly household may include a person(s) younger than 62 years of age who is essential to the elderly, handicapped, or disabled person's care and well-being. (To receive an elderly household deduction, the elderly, handicapped, or disabled person must be the tenant or co-tenant.)

(j) *Eligible tenants.* Elderly, handicapped, or disabled persons and very low-, low-, or moderate-income households or any combination thereof as planned for the project and shown on the applicant's loan resolution or loan agreement and who meet the eligibility requirements of Exhibit B to Subpart C of Part 1930 of this chapter. In the case of cooperative housing projects, all members (occupants) must have a very low, low, or moderate income except that any member who is admitted as an eligible member of the cooperative may not subsequently be deprived of his/her membership or tenancy by reason of no longer meeting the income eligibility requirements as outlined in Exhibit C of Subpart A of Part 1944 of this chapter (available in any FmHA office).

(k) *Gains or profits.* For the purpose of paragraph (y) of this section, gains and profits do not include dividends payable on stock which is nonvoting, limited as to the amount of dividends that can be paid thereon and limited as to liquidation value in the event of corporate dissolution.

(l) *Group living.* A type of congregate housing that is occupied by one or more elderly, handicapped or disabled person sharing living space within a rental unit in which a resident assistant is required.

(m) *Household.* One or more persons who maintain or will maintain residency in one rental unit, but not including a resident assistant or chore service worker.

(n) *Individual.* A natural person.

(o) *Limited partnership.* A partnership consisting of one or more general partners who are jointly and severally responsible for conducting the business of the partnership, and one or more special partners contributing cash in a specific amount as capital to the

common stock, who are not liable for the debts of the partnership beyond the funds contributed.

(p) *Limited profit basis.* An individual or organization applicant who, in order to obtain interest credit assistance, will agree to limit the amount of profit to be obtained. Applicants operating on this basis will be permitted to receive a return on their initial investment in accordance with the requirements outlined in § 1944.215(l) of this subpart. The applicant will legally obligate itself to regulate rents, charges, rate of return, and methods of operation.

(q) *Low-income household.* A household having an adjusted annual income within the maximum low-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter (available in any FmHA office.)

(r) *Manufactured home (unit).* A dwelling unit which is built to conform with the Federal Manufactured Home Construction and Safety Standards and Farmers Home Administration (FmHA) thermal requirements. Manufactured homes are described further in Exhibit J of Subpart A of Part 1924 of this chapter.

(s) *Manufactured home rental project.* A parcel(s) of land located in the same community which contain two or more manufactured home units on each parcel for rental occupancy and operated under one management plan with one loan agreement/resolution.

(t) *Maximum debt limit (MDL).* The maximum amount that FmHA will lend for a project based on the lesser of appraised value or total development cost multiplied by 95 percent for a limited profit operation or 102 percent for a nonprofit operation.

(u) *Moderate-income household.* A household having an adjusted annual income within the maximum moderate-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter (available in any FmHA office).

(v) *OGC.* The Regional Attorney or the Attorney in Charge in the field office of the Office of the General Counsel of the United States Department of Agriculture.

(w) *Organization.* A private nonprofit corporation, profit corporation, consumer cooperative, association, State, or local public agency, trust, partnership, or limited partnership.

(x) *Owner-builder.* A qualified builder-applicant who has experience and has demonstrated the ability and capability to build an RRH project.

(y) *Private nonprofit corporation.* A corporation which:

(1) Is controlled by private persons or interests;

(2) Is organized and operated for purposes other than making gains or profits for the corporation or its members;

(3) Is legally precluded from distributing to its members any gains or profits during its existence; and

(4) In the event of its dissolution, is legally bound to transfer its net assets to a nonprofit corporation of a similar type or to a municipal corporation which will operate the housing for the same or similar purposes.

(z) *Project.* The total number of rental housing units that are operated under one management plan with one loan agreement/resolution.

(aa) *Resident assistant.* A person(s) residing in a housing unit who is essential to the well-being and care of the elderly, handicapped, or disabled person(s) residing in the unit and who is not related by blood, marriage, or operation of the law to these tenants. The resident assistant is not considered to be part of the household and is not subject to the eligibility requirements of a tenant. The resident assistant receives compensation from sources other than FmHA. A resident assistant is not a chore service worker as defined in Exhibit B of Subpart C of Part 1930 of this chapter.

(bb) *Rural area.* Open country or rural places as defined in § 1944.10 of Subpart A of Part 1944 of this chapter.

(cc) *Rural rental housing.* Structures in a rural area which are or will be suitable for, and available to, eligible tenants on a rental basis for dwelling use. The structures may include related facilities where appropriate.

(dd) *Security value.* The present market value of the real estate offered as security for the loan as determined by the loan approval official less the unpaid principal balance plus past due interest on any other liens against it. Other liens will include any prior liens and junior liens to be or likely to be taken or subordinated at or immediately after loan closing.

(ee) *Very low-income household.* A household having an adjusted annual income within the maximum very low-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter (available in any FmHA office).

§§ 1944.206–1944.210 [Reserved]

§ 1944.211 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an RRH loan, the applicant must:

(1) Be a citizen of the United States or a legally admitted alien for permanent residence in the United States; an organization as defined in § 1944.205 of this subpart; or an American Indian tribe, band, group, or nation (including Alaskan Indians, Aleuts, Eskimos, and any Alaskan native village), which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512).

(2) With the exception of a State or local public agency, be unable to obtain the necessary credit from private or cooperative sources on terms and conditions that allow the applicant to rent the units for amounts that are within the payment ability of eligible tenants.

(i) For an individual, the assets of both the applicant and spouse will be considered.

(ii) For nonprofit organizations, the assets of the individual members will not be considered.

(3) Have the ability and intention to maintain and operate the housing for the purposes for which the loan is made.

(4) With the exception of a nonprofit organization, consumer cooperative or public body, have or be able to obtain the 5 percent borrower contribution required by § 1944.213(a)(2) of this subpart. This contribution must be in the form of cash, land, or a combination thereof.

(5) Own the housing and related land or become the owner when the loan is closed. In addition to the owner of full marketable title, an owner may be a lessee of a tract of land owned by a nonpublic body, State, political subdivision, public body, or public agency, or American Indian tribal lands which are not available for purchase. The State Director must determine that leaseholds are fully marketable in the area. The following conditions must be met when considering leasehold interests:

(i) A recorded mortgage constituting a valid and enforceable lien on the applicant's leasehold will be given as security.

(ii) The amount of the RRH loan against the property will not exceed the estimated market value determined in accordance with Subpart B of Part 1922 of this chapter (available in any FmHA office).

(iii) The unexpired term of the lease on the date of loan approval must be at least 25 percent longer than the repayment period of the loan and rent charged for the lease does not exceed the rate being paid for similar leases in the area.

(iv) The borrower's interest must not be subject to summary foreclosure or cancellation.

(v) The lease must:

(A) Not restrict the right to foreclose the RRH mortgage or to transfer the lease.

(B) Permit FmHA to bid at a foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(C) Permit FmHA to occupy or sublet the property and sell the leasehold for cash or credit if the leasehold is acquired through foreclosure (or voluntary conveyance in lieu of foreclosure), or if the borrower abandons the property.

(D) Permit the borrower, in the event of default or inability to continue with the lease and the RRH loan, to transfer the leasehold, subject to the RRH mortgage, to a transferee with assumption of the RRH debt.

(vi) The advice of OGC will be obtained as to legal sufficiency of the lease. When the State Director is uncertain as to whether a loan can be made on a leasehold, he/she should request National Office evaluation and instruction.

(6) Have or be able to obtain the initial operating capital and other assets needed for a sound loan. The initial operating capital will be at least 2 percent of the total development cost of the project. RRH loans made to nonprofit organizations and to State or local public agencies may include up to 2 percent of the development cost for initial operating expenses.

(i) Initial operating capital should be sufficient to pay for such costs as property and liability insurance premiums, fidelity bond premiums if an organization, utility hookup deposits, maintenance equipment, movable furnishings, and equipment, printing lease forms and other initial operating expenses. It will be deposited into the general operating account in accordance with the provisions of the loan agreement or loan resolution prior to the start of construction or loan closing (whichever is first) and will be used for authorized purposes only.

(ii) When the applicant is to provide other movable equipment and furnishings, the initial capital will be increased sufficiently to cover the cost of these items.

(iii) If the borrower provided the initial 2-percent operating capital from its own funds, after 2 years, but before 5 full budget years of project operation, the State Director may authorize the borrower to make a one-time withdrawal from project funds in accordance with Subpart C of Part 1930 of this chapter.

(7) Possess the ability, experience, and the legal and financial capacity to incur and carry out the obligations required for the loan.

(8) Agree to comply with all FmHA requirements, such as those set forth in the loan resolution, loan agreement, the form of note, the mortgage and FmHA regulations.

(9) Provide necessary management to assure the successful operation of the project. Management services may be provided by the applicant, a management firm or an agent. Management will be handled in accordance with Exibit B to Subpart C of Part 1930 of this chapter.

(10) In the case of a private nonprofit organization:

(i) If operating in one community and its trade area, meet the following additional requirements:

(A) The organization must maintain a broadly-based membership reflecting a variety of interests in the community. The organization should have at least 25 members. The number of members may be decreased for projects with less than 25 units.

(B) Each member must be limited to one vote in the affairs of the organization.

(C) A majority of the members must reside in the community or the trade area where the housing will be located.

(D) At least five of the members must be recognized as leaders in civic, governmental, fraternal, religious, and other community organizations of the community where the housing will be located.

(E) There must be at least five people on the board of directors and they must be selected by a procedure that insures that the interests of minorities and women are adequately represented.

(F) The directors must be members of the organization.

(G) The organization should adopt articles of incorporation and bylaws substantially conforming to the model articles and bylaws set forth in Exhibits C and D, modified as appropriate in accordance with State law. The State Director, with the assistance of OGC, may develop a model set of articles of incorporation and bylaws for the State which are consistent with Exhibits C and D and publish an appropriate State supplement.

(ii) If operating in more than one community or on a county or regional basis and providing or planning to provide rental housing in more than one community, meet the following requirements in addition to those in paragraph (a)(9)(i) except for (a)(9)(i)(C) of this section:

(A) The membership base should be representative of the area being served with at least five members representing a variety of interests from each community where the housing will be located.

(B) The organization's articles of incorporation and bylaws must include the requirements outlined in paragraph (a)(9)(ii)(A) of this section.

(11) In the case of a limited partnership:

(i) The general partners must be able to meet the financial requirements of § 1944.211(a)(4) of this subpart if the partnership is not able to when the preapplication is filed.

(ii) The general partners must maintain a minimum 5 percent financial interest in the partnership. For this purpose, the minimum 5 percent requirement will be deemed to have been met if the general partner has a minimum 5 percent interest in the residuals or refinancing proceeds. The general partner will not be required to have a minimum 5 percent interest in current profits, losses, and cash distributions of the partnership. For example, an agreement where the general partners have such a 5 percent interest in a limited partnership and receive only 1 percent of the profits while the limited partners receive 99 percent of the profits would be allowable.

(iii) The partnership must agree that new general partners can be brought into the organization only with the prior written consent of FmHA.

(12) Be willing to honor the long-term commitment associated with receipt of a Section 515 loan. Borrowers or principals of borrower organizations who sell or transfer loans less than 5 years old will not be considered eligible for further participation in the program as borrowers or principals (i.e., a general partner in a limited partnership) for at least 5 years from the date of the loan or assumption closing. The State Director may make an exception to this provision only if the transfer or sale meets the hardship provisions of § 1965.65(a)(4) of Subpart B of Part 1965 and the applicant meets all other eligibility requirements.

(b) *Authorized representative of an applicant.* FmHA will deal only with the applicant or its authorized representative and the representative's technical advisers. An authorized representative of a nonprofit applicant must have no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment or the purchase of the land for the housing site.

§ 1944.212 Loan purposes.

RRH Loans may be made to qualified applicants to:

(a) Construct new housing.

(b) Purchase and rehabilitate existing buildings only when moderate or substantial modifications, repairs or improvements to the structures are necessary to meet the requirements of decent, safe, and sanitary living units.

(1) All rehabilitation work to be performed must be classified as either moderate or substantial rehabilitation as defined in Exhibit K of Subpart A to Part 1924 of this chapter.

(2) The structure to be rehabilitated must be physically and structurally sound enough to afford maximum safety (including fire safety) to the residents of the structure after rehabilitation.

(3) Rehabilitation must be planned and accomplished so that the resulting housing will:

(i) Meet the applicable development standards as provided for in § 1924.5(d)(1) of Subpart A of Part 1924 of this chapter and any applicable historic preservation requirements.

(ii) Create a suitable and appealing living environment and be substantially equivalent to new construction in quality and livability.

(4) The applicant must submit complete plans and specifications for rehabilitation for FmHA's review and acceptance.

(5) The rehabilitated project must generally meet the provisions of § 1944.215(b) of this subpart.

(6) When the downtown location of a rehabilitation project dictates such, a portion of the structure (such as part of the ground floor and basement) can be designated for commercial use on a lease basis. RRH loan funds, however, cannot be used to finance *any* cost associated with the commercial space. In order to determine the correct RRH loan amount for the residential portion of such a structure, the following guidelines will apply:

(i) The applicant must supply a complete cost breakdown for purchasing and rehabilitating the entire structure into its joint residential/commercial use.

(ii) The costs that can be easily and appropriately identified as being part of either the commercial or residential portion of the structure should be separated.

(iii) The costs which cannot be easily and appropriately isolated (such as the cost associated with repair or renovation of a boiler, the value of the structure "as is," and certain mechanical or electrical components that will benefit both commercial and residential tenants will be prorated between the two uses based on the percentage of equipment load (example—central boiler or air conditioning) which would be necessary for each portion of the structure.

(iv) For the purposes of the loan limitations in § 1944.213(a) (1) and (2) of this subpart, the term "development cost" means the development costs associated with or prorated to the residential use of the structure, and the term "security value" is the security value of the project exclusive of the value contributed to the land and structure(s) by the commercial space. The capitalization approach to value is one means by which FmHA may establish the value contributed by the commercial space.

(v) The applicant must rely on other sources of financing for all costs associated with or prorated to the commercial space, given the FmHA security requirements of § 1944.221 of this subpart.

(7) The applicant may not lease any authorized commercial space without the prior written consent of the State Director. Prior to loan closing, the advice of OGC will be obtained as to any modifications needed in the mortgage, loan agreement or loan resolution to enforce this requirement. The State Director may not consent to any lease unless:

(i) The lease contains a provision by which the lessee agrees to vacate the premises if FmHA withdraws its consent to the lease.

(ii) The proposed use of the leased space has a mutually supportive relationship to the needs of the residential tenants and to the use of the residential portion of the structure.

(iii) The terms of the lease and the proposed use of the leased space do not jeopardize the interests of the tenants of the project or the continued use of the residential portion of the structure.

(iv) The lease has been reviewed by OGC and found to be legally sufficient and in compliance with the requirements of this subpart.

(c) Purchase and improve the necessary land on which the housing will be located.

(1) Loan funds used to purchase land may not exceed the estimated market value of the site in its present condition as shown by a current appraisal in accordance with Subpart B of Part 1922 of this chapter (available in any FmHA office). Purchase price in excess of estimated market value will not be used in determining the applicant's initial investment.

(2) Loan funds will not be used to buy land from an applicant or a member of an applicant/organization or from another organization in which any member of the applicant/organization has an interest except that, with prior approval of the State Director, loan funds may be used to buy land from a member of a broadly-based nonprofit applicant/organization.

(3) Loan funds may be used to acquire land in excess of that needed for the housing, including related facilities, only when:

(i) The applicant cannot acquire only the needed land at a fair price, can justify the acquisition, agrees to sell the land as soon as practicable and apply proceeds on the loan, and has legal authority to acquire and administer the land; and

(ii) The cost of the excess land is a reasonable portion of the loan.

(d) Develop and install streets, a water supply, and sewage disposal, heating, cooling, and light systems necessary in connection with the housing. If the facilities are located offsite, the following requirements must be met:

(1) The applicant will hold the title to the facility or have a legal right to use the facility for a period of at least 25 percent longer than the life of the loan and the title or right can be transferred to any subsequent owner of the site.

(2) The facilities are provided for the exclusive use of the RRH project or funds are limited to the prorated part of the total cost of the facility according to the use and benefit to the project. The applicant will agree in writing to the application, as extra payments on the RRH loan, of any subsequent collection by the borrower from other users or beneficiaries of the facility.

(3) Adequate security can be obtained with or without a mortgage based on the offsite facilities.

(e) Develop other related facilities in connection with the housing such as:

(1) Maintenance workshop and storage facilities.

(2) Recreation center when the project is large enough to justify the facility. In all projects, passive recreation (such as outdoor seating) for elderly projects and active facilities (such as tot lots) for family projects will be provided.

(3) Central cooking and dining in congregate and group living housing when the project is large enough to justify them to supplement the kitchen facilities in each unit. All equipment purchased with loan funds for the central cooking and dining facilities, such as stoves, refrigerators, ovens, dish washing machines and steam tables, should be attached to the land or buildings in a manner regarded in law as part of the real estate. The applicant must provide a long range plan for the

benefit of the tenants which addresses the long-term availability of assistance from the Area Agency on Aging, the local office of the State Vocational Rehabilitation Agency, or State developmental disabilities or mental health agency. If assistance is not available from local organizations or other State or Federal agencies, the applicant must be able to operate the facilities for the benefit of the tenants with its own funds. In the case of a lease, the payment to the borrower should be sufficient to cover the annual operating expenses, debt services and reserve account attributable to the leased portion of the project. The cost of the food and other support services will not be reflected in the FmHA budget that shows the operation and maintenance cost of the housing project. This will not preclude tenants who voluntarily use the service from paying a separate charge for these services. If needed in the community, FmHA may permit facilities in the project larger than those required solely by the tenants provided other sources of funds are available to pay a pro rata share of the cost. When the facilities are provided with loan funds, the following conditions must be met:

(i) The meals must be wholesome and economical. A minimum of one cooked meal per day, at least 5 days per week, must be provided. If tenants are charged for meals, the charges must be separate from their rental charges.

(ii) If the entity that operates the facility is eligible to accept food stamps under the regulations of the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA), the entity must be authorized by FNS to accept food stamps from the tenants for the purchase of meals.

(iii) The services to be provided and the fees to be charged (if any) must be fully documented by a signed statement from the applicant if it will provide the services, or in a lease agreement if the services will be provided by others. Any lease agreement must be approved by the State Director or the loan approving official and contain the following statement:

> This agreement will not be effective until approved by the State Director of the Farmers Home Administration, U.S. Department of Agriculture, or the State Director's delegated representative.

(4) Space for a small infirmary for emergency care only when justified by the size of the project. An infirmary will not be justified if facilities for emergency care expected to be needed by the tenants are readily accessible elsewhere.

(f) Construct office and living quarters for the resident manager and other operating personnel if the facilities would be to the advantage of the project and the Government. The State Director should make a determination and the justification will be included in the docket.

(g) Purchase and install ranges, refrigerators, drapes, drapery rods and clothes washers and dryers. Laundry facilities are required in all projects and clothes washers and dryers should be provided in a central laundry room. Normally, a minimum of one washer and dryer should be provided for every 8 to 12 units in a project. Clothes washers and dryers may not be installed in individual rental units if the installation is not customary in the area for the size of project and type of housing involved. In any case, both central and individual laundry facilities will not be provided in a single project.

(h) Provide landscaping, seeding or sodding of lawns, and other necessary facilities related to buildings such as walks, yards, fences, parking areas, and driveways.

(i) Pay related costs such as fees and charges for market studies, tax credit fees, and legal, archeological, architectural, engineering, environmental and other appropriate technical and professional services. The fees and charges may be paid to an applicant or officer, director, trustee, stockholder, member or agent of the applicant provided those fees and charges are reasonable and typical for the area and are earned. Legal, technical, and professional fees do not include the costs incurred in the formation or incorporation of the limited profit applicant, costs of syndication, or the payment of a loan packaging or development fee.

(j) Provide loan funds to enable a nonprofit corporation or consumer cooperative to pay a qualified consulting organization or foundation, operating on a nonprofit basis, to assist it in the formation or incorporation and for the development and packaging of its loan docket and project and to pay legal, technical and professional fees incurred in the formation or incorporation of the applicant entity. The State Director must determine that:

(1) Either—

(i) The applicant, with available FmHA assistance, cannot meet all requirements for a sound loan without the services; or

(ii) The services would permit significant financial savings to the Government, either directly or by reducing the workload involved in processing applications.

(2) The charges are reasonable in amount, considering the cost of similar services and the amount and the purpose of the loan.

(k) Pay construction interest as follows:

(1) In the case of multiple advances, loan funds will not be used to pay construction interest. Accrued interest during construction will be capitalized when construction is substantially complete, loan funds are fully advanced and the project is ready for full operation or when advances plus accrued interest reach the maximum debt limit (MDL). When requested by the borrower, each month the District Director will provide the borrower monthly computations of the amount of interest that is accruing during the construction period.

(2) In the case of interim financed construction, interest accrued and customary charges necessary to obtain interim financing may be included in the loan amount.

(l) Purchase housing from an interim lender that holds fee simple title to an RRH project upon which construction commenced pursuant to § 1944.235(c)(1) and after issuance of a letter of commitment to the interim lender in accordance with Exhibit B of this subpart, when all of the following conditions exist.

(1) The interim lender holds title to the property because the original RRH applicant for whom funds were obligated will not or cannot continue with the project after a letter such as that shown in Exhibit B to this subpart was issued.

(2) The owner of the property is the interim lender to whom FmHA issued a letter such as that shown in Exhibit B to this subpart for the construction of the project.

(3) The project is substantially complete (see § 1944.235(c)(1)(vi) of this subpart), all work has been satisfactorily completed in a workmanlike manner in accordance with the originally approved drawings, specifications and contract documents, and is in compliance with Subparts A and C of Part 1924 of this chapter.

(4) There are no unpaid obligations outstanding in connection with the project.

(5) All other requirements of this subpart have been met.

(m) Pay for related costs incurred in compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and in accordance with § 1944.215(t) of this subpart.

(n) Construct demonstration projects involving innovative housing units and systems which do not meet existing published standards, rules, regulations, or policies, but do meet the intent of providing decent, safe, and sanitary rural rental housing. Only the Administrator may authorize loan funds to be used for this purpose.

(o) Finance the conversion of Section 502 units in inventory to a Section 515 project in accordance with the requirements of this subpart and Subpart C to Part 1955 of this chapter. Loans for this purpose can be made only to public agencies and private nonprofit organizations. Units should be repaired or rehabilitated prior to conversion to Section 515 housing.

§ 1944.213 Limitations

(a) *Loan limits.* The amount of the RRH loan(s) on each project is limited to the maximum amount of the State Director's loan approving authority unless the National Office provides prior written authorization. To request National Office authorization, the State Director must submit the preapplication, detailed information on the need and market for the project, and his/her recommendations. This must be done before Form AD–622, "Notice of Preapplication Review Action," or any other notice is given to the applicant indicating that the loan has been determined eligible. Additional loans to the same applicant entity may be made on the same or contiguous site without regard to this limitation if the previous project is completed and is being successfully operated. A clear market demand must be evidenced for any addtional units to be provided. Each loan will also be subject to the following additional requirements:

(1) For nonprofit corporations, consumer cooperatives, and State or local public agencies, the amount of the RRH loan(s) will be limited to the development cost or the security value of each project, whichever is less, plus the 2 percent initial operating capital and/or the relocation costs incurred as indicated in § 1944.215(t) of this subpart.

(2) For all other applicants, the amount of the RRH loan(s) will be limited to no more than 95 percent of the development cost or 95 percent of the security value of each project, whichever is less.

(3) For all applicants, the amount of the loan after capitalized construction interest is considered will not exceed the loan limits in paragraphs (a) (1) and (2) of this section. However, Predetermined Amortization Schedule System (PASS) loans closed with multiple advances may exceed that amount when an additional amount is permitted to allow interest to be capitalized to the first of the following month.

(4) All borrowers must agree in writing to provide funds from their own resources to pay any cost for completing planned construction after the MDL is reached.

(b) *Limitations on use of loan funds.* Loans will not be made for:

(1) Specialized equipment for training and therapy.

(2) Commercial facilities except essential service-type facilities for tenants when such facilities are not conveniently available.

(3) Housing to serve primarily temporary and transient residents.

(4) Nursing homes, special care facilities, or institutional-type homes.

(5) Operating capital for a central dining facility or any items which do not become affixed to the real estate security, such as special portable equipment, furnishings, kitchen ware, dining ware, eating utensils, movable tables, and chairs, etc.

(6) Nonessential facilities such as fireplaces, saunas, whirlpools, gyms, and swimming pools.

(7) Refinancing debts of the applicant except:

(i) As authorized in § 1944.235(c) and § 1944.213(c)(1) of this subpart; or

(ii) When a nonprofit organization or a State or local public agency applicant already owns land on which a lien exists and a subordination or release cannot be obtained and the applicant does not have the financial resources necessary to obtain a release of the existing lien(s). In this situation, loan funds may be used to obtain a release of the land needed for the site of the proposed project. The amount of funds used for such purposes will be limited to the amount necessary to obtain the release but will not exceed this "as is" value of the land as determined in accordance with FmHA Instruction 1922–B (available in any FmHA office).

(8) Payment of any fee, charge or commission to any broker, negotiator or other person for the referral of a prospective applicant or solicitation of a loan.

(9) Payment of any fee, salary, commission, profit, or compensation to an applicant or to any officer, director, trustee, stockholder, member, or agent of an applicant except as provided in § 1944.212(j) of this subpart.

(10) Land which the applicant or a member of an applicant/organization owns or land which is owned by any other organization in which any member of the applicant/organization has an interest, except as authorized in § 1944.212(c)(2).

(11) Compensation to an applicant for value of land contributed in excess of the initial 5 percent contribution.

(c) *Obligations incurred before loan closing.* When an applicant files a preapplication for a loan, the District Director will advise the applicant not to start construction or incur any indebtedness until the loan is closed, except for those cases involving interim financing; the guidelines outlined in § 1944.235(c)(1) of this subpart will then apply. During the period of preapplication review and processing, applicants will not take any actions with respect to their applications which would have an adverse impact on the environment or limit the choice of reasonable alternatives. This requirement does not preclude the applicant from developing preliminary plans or designs or performing other work necessary to support an application for Federal, State, or local permits or assistance. If the applicant incurs debts for work, materials, land purchase, or other authorized fees and charges before the loan is closed, the State Director may authorize the use of loan funds to pay the debts when all of the following conditions exist:

(1) The debts were incurred:

(i) After the applicant filed a written preapplication for a loan with FmHA;

(ii) Prior to the date of application as part of a predevelopment loan specifically intended as temporary financing from a public agency or nonprofit organization and the State Director secures prior concurrence from the National Office; or

(iii) Prior to the date of application as part of a development loan made to a State or local public agency specifically intended as temporary financing and the State Director secures prior concurrence from the National Office.

(2) The applicant is unable to pay the debts from its own resources or to obtain credit from other sources and failure to authorize the use of loan funds to pay the debts would impair the applicant's financial position.

(3) The debts were incurred for eligible loan purposes.

(4) Contracts, materials, construction, and any land purchased meet FmHA standards and requirements.

(5) Payment of the debts will remove any liens which have attached and any basis for liens that may attach to the property on account of such debts.

(d) *Limitations on cost increases.* After loan approval of a project involving new construction or major rehabilitation:

(1) No increase in per unit development cost will be approved,

whether the circumstance causing the cost increase occurs before, during, or after the construction period, unless these conditions were unforeseen factors beyond the owner's control, such as:

(i) Design changes required by FmHA or State or local government having jurisdiction over the development of the project; or

(ii) Changes in financing approved by FmHA.

(2) Any cost increase which cannot be approved for funding by FmHA must be satisfied by the owner from its own resources. Whenever there is doubt as to the resulting effect of a cost increase upon per unit development cost, the cost increase request may be conditionally approved provided:

(i) The owner agrees in writing to provide any funds necessary in excess of its initial contribution and the loan amount to complete the project; and

(ii) The owner furnishes surety that guarantees payment under the assurance agreement in the form of a surety bond, unconditional and irrevocable letter of credit or cash which is put into an interest or noninterest bearing supervised bank account. Such funds will not result in a lien on the project or its operating income.

(3) Under no circumstances will a cost increase request be approved without concurrent agreement between FmHA and the applicant/borrower as to how the cost increase will be funded.

§ 1944.214 Rates and terms.

(a) *Interest.* Upon request of the borrower, the interest rate charged by FmHA will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice at the time of loan approval, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(b) *Amortization period.* Each loan will be scheduled for payment within a period that is necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security. The payment period will not exceed 50 years from the date of the note, except as provided in § 1944.223 for manufactured housing.

§ 1944.215 Special conditions.

(a) *Cost containment.* To help assure low affordable rental rates, RRH projects must be economical in construction and not of elaborate design or materials. Cost containment is not to be interpreted as accepting poor design or cheap construction. Projects must provide the features and amenities necessary for the lifestyles of the tenants.

Cost containment challenges us to consider the cost/benefit ratio when evaluating, recommending or requiring specific design features or construction techniques. The following guidelines should be followed when developing RRH projects:

(1) Each State architect/engineer should compile and maintain data or spreadsheets on cost/sq. ft., cost/unit, and cost/acre, A/E fees, etc., which are reasonable and customary for the State. Any proposal that exceeds those costs should be carefully evaluated for possible cost reductions. Final determinations must be realistic, interrelated to maintenance and operation costs, and based upon local conditions and common sense.

(2) The elimination or reduction of unnecessary delays in application processing can contribute to cost containment through lower interest and other business expenses on land, inventory, tests, design studies, etc. When reasonable processing timeframes are established, known and followed, appropriate time can be planned for preparing quality application and construction documents. This can result in better instructions to the builder, fewer errors and lower construction costs.

(3) Most materials and systems are available in a range of qualities and prices. The construction documents should be carefully reviewed for specifications that require qualities or grades higher than necessary. These specifications should be accepted only if fully justified and no reasonable alternatives are available.

(4) Designs which encourage standard building material dimensions and reduce waste will be used as much as possible.

(5) State Directors should encourage the use of sites that require a minimum amount of site development. State Directors should also encourage projects with a minimum of 14 units per acre unless the applicant provides documentation supporting a change, such as local zoning requirements requiring a different density.

(6) Items such as covered parking and garages can be included in the FmHA loan only when they are required by local codes or ordinances.

(7) Sound judgment and common sense must also be used in construction inspections and final acceptance of projects. Field staff involved in these activities must be careful not to impose additional or unreasonable requirements on the builder that will increase construction costs.

(8) When evaluating RRH projects, life cycle costs will be considered. These costs include: Initial costs, future replacement costs and operation and maintenance costs. The economic lives of alternative design and materials will be considered. Reductions in initial costs may result in higher life cycle costs.

(9) Management, maintenance and community rooms should not exceed the limitations described in the FmHA Manual of Acceptable Practices (available in any FmHA office). Laundry rooms should be no larger than necessary to accommodate equipment, circulation and areas for sorting and folding clothes.

(b) *Type of housing.* All housing should be designed to:

(1) Be economically constructed and not of elaborate design or materials. All new construction will conform with the applicable development standards of § 1924.5(d)(1) of Subpart A of Part 1924 of this chapter. As a general rule, the gross square foot living area of new rental units and related facilities to be constructed with RRH loan funds will be within the ranges listed below. Living area does not include outdoor storage space when unfinished or space for heating and cooling equipment.

Type of unit	Minimum/ maximum living area
0-Bedroom Unit	350-500 sq. ft.
1-Bedroom Unit	500-650 sq. ft.
2-Bedroom Unit	650-800 sq. ft.
3-Bedroom Unit	800-950 sq. ft.
4-Bedroom Unit	950-1100 sq. ft.

(i) An additional 100 to 120 square feet of living area may be added to the 4-bedroom unit guideline for each bedroom in excess of 4.

(ii) In townhouse units where living area is on two floor levels of the rental unit, the maximum gross square footage of living area may be exceeded by up to 70 square feet, but only to the extent necessary to accommodate interior stairways.

(iii) Room sizes must be in compliance with the applicable development standard. Minimum room sizes may be determined by the minimum areas in Guide 2 of Subpart A of Part 1924 of this chapter.

(iv) Additional area to accommodate energy conserving and solar heating elements such as vestibules, heat sinks, solar greenhouses, solar heat storage devices and the like may be allowed in excess of the stated maximum size

guidelines. However, such devices, if included, must be justified on a cost effective basis.

(2) Consist of multi-unit type housing with two or more units and appropriate related facilities except for the conversion of Section 502 inventory housing as covered in § 1944.212(o) of this subpart, manufactured homes and group living arrangements. Group-type single household dwellings, if financed, must meet the following requirements:

(i) In most cases, consist of single household dwellings that can be economically converted to a rental or homeownership unit for a family if the need for this type housing ceases.

(ii) The applicant must show that adequate support services needed by the tenants will be available on a continuous long range basis. As a general rule, the support services must be provided by a State or local public agency. However, a nonprofit organization with a successful history and an ongoing program may be considered capable of providing these support services.

(3) Be residential in character and be designed to meet the needs of eligible tenants. Generally, RRH structures should not be more than three stories high. However, low-rise structures with elevators can be considered when the following conditions exist:

(i) There is a serious shortage of suitable building sites, the number of units needed cannot be built due to lack of space on available suitable sites and other building sites are not available.

(ii) Land costs are such that one- to three-story construction would result in a unit cost and rental rates in excess of what eligible tenants can afford.

(iii) The number of stories proposed for the structure is compatible with other rental structures in the community.

If there are no other low-rise rental structures in the community, the proposed structure must be in character with surrounding structures.

(iv) The cost of the units should compare favorably with one- to three-story construction financed with RRH loans. If the costs are higher, the loan will not be approved until the FmHA State architect or engineer has reviewed the plans, specifications and cost data to assure that further cost savings cannot be achieved without sacrificing the quality and serviceability of the housing.

(v) Elevators will be provided in accordance with the applicable development standards. If elevators are included, the subsoil conditions of the site must be adequate for the installation of elevators and sufficient service personnel must be available in the area for service and repair work.

(4) Provide kitchen and bath facilities consistent with the size of the unit. For example, units with three or less bedrooms typically can be designed with one bath. However, townhouse units with three or more bedrooms where living area is on two floors may contain bath facilities on both levels. Kitchen facilities are required in all units; however, in congregate housing, some or all of the units may have limited facilities, such as a cooktop with a small oven and refrigerator.

(5) Give maximum consideration to energy conservation. To keep operating costs at a minimum, units should be individually metered for utilities unless adequate justification is provided to show that it would be infeasible.

(6) Meet the needs of handicapped tenants. At least 5 percent of the units in the project or one unit, whichever is greater, must be accessible to or adaptable for physically handicapped persons. The percentage of the units provided may be modified if an applicant shows, through information obtained from a State, local or independent agency or organization serving handicapped people, that a different percentage of accessible or adaptable units is appropriate. However, at least one accessible unit will be provided. Adaptable units must be constructed in accordance with the uniform Federal Accessibility Standards, Sections 4.34.3 through 4.34.6.

(c) *Determination of per unit rental rates for group living arrangements.* To determine the amount of rental payment to be collected per unit for housing involving a group living arrangement (and only for this particular determination), the total annual cost to operate the facility (line 38 of Form FmHA 1930–7, "Statement of Budget and Cash Flow") will be divided by the total square footage to be occupied by the tenant. If the project also includes conventional rental apartment units (1, 2, 3, etc. bedroom units), the square footage of those *units* (not bedrooms) will be added to the square footage of the other units (bedrooms) contained in the housing involving group arrangement, and the total square footage of all the units will be divided into line 38 of Form FmHA 1930–7. The number arrived at by dividing the total square footage into line 38 of Form FmHA 1930–7 then will be multiplied by the square foot area of each *unit* to determine the rental rate of the particular *unit*. In the case of housing involving a group living arrangement, each bedroom will be counted as if it were one rental unit. However, the bedroom occupied by the resident assistant will be excluded from this number and will not be counted in making the determination of rental payment to be charged to all the other bedrooms occupied by the tenant(s). Once this charge per unit has been calculated, the rental payment by the tenant(s) will be determined in the usual manner.

(d) *Deferred principal payments.*

(1) When construction is funded by multiple advances from FmHA, principal payments on the loan will be deferred for the period of construction.

(2) When an interim financed loan is closed other than the first day of the month, principal payments will be deferred for the remaining period of the month in which the loan is closed.

(3) When construction is substantially complete and the project is ready for full operation, or the total of principal advances plus accrued interest reaches the MDL, interest on the advances will be accrued to the Amortization Effective Date (AED) and will be capitalized, establishing a new principal (loan) amount.

(4) At loan obligation, the MDL will be established according to § 1944.213(a) of this subpart. When the final advance on the loan is issued or the MDL is reached, the Finance Officer will:

(i) Accrue interest on all advances through the last day of the month and capitalize the interest as of the AED. When there is a remaining obligation balance, it will be canceled by the Finance Office.

(ii) Establish the new loan amount and the borrower's monthly payments computed over the remaining term of the loan.

(5) The District Office will:

(i) Contact the applicant and complete Form FmHA 1944–52, "Multiple Family Housing Promissory Note."

(ii) Implement Form FmHA 1944–7, "Interest Credit and Rental Assistance Agreement," at AED or when the project is substantially complete and ready for full operation, whichever is later.

(e) *Refinancing RRH loans.* Each borrower must agree to refinance the unpaid balance of the RRH loan at the request of FmHA when it appears to FmHA that the borrower is able to obtain a loan from responsible cooperative or private credit sources at rates and terms which FmHA considers reasonable, and still rent the units to eligible tenants at rental rates within their payment ability. The refinancing of a loan must comply with the restrictions indicated in § 1944.236(b)(5) of this subpart and Subpart F of Part 1951 of this chapter.

(f) *Loan resolution or loan agreement.* The loan resolution or loan agreement

contains provisions of policy and procedure which should be carefully read and fully understood by the applicant. If any provisions are not appropriate to a particular case, proposed substitute language must be approved by FmHA and OGC. Subpart C of Part 1930 provides for the maintenance of certain accounts and the pledge of housing income as security. It contains regulatory provisions governing and giving FmHA power to impose requirements regarding the housing and related operations of the applicant. All sections and requirements determined applicable by OGC will form part of any other loan resolution or agreement that may be submitted by the applicant. These are:

(1) Form FmHA 1944–33, "Loan Agreement for an RRH Loan to an Individual Operating on a Profit Basis or RRH Loan to an Individual Operating on a Limited Profit Basis."

(2) Form FmHA 1944–34, "Loan Agreement for an RRH Loan to a Partnership Operating on a Profit Basis or RRH Loan to a Limited Partnership Operating on a Profit Basis or RRH Loan to a Partnership Operating on a Limited Profit Basis or RRH Loan to a Limited Partnership Operating on a Limited Profit Basis."

(3) Form FmHA 1944–35, "Loan Resolution for an RRH Loan to a Broadly Based Nonprofit Corporation or RRH Loan to a Profit Type Corporation or RRH Loan to a Profit Type Corporation Operating on a Limited Profit Basis."

(g) *Interest credits and rental assistance (RA).*

(1) Borrowers may receive interest credits if they meet the requirements outlined in Exhibit B of Subpart C to Part 1930 of this chapter.

(2) RA may be provided to eligible tenants in eligible projects in accordance with Exhibit E to Subpart C of Part 1930 of this chapter.

(3) At least 95 percent of RA units available for newly constructed projects must be used to assist very low-income tenants. Up to 5 percent can be used for low-income tenants.

(h) *Nondiscrimination in use and occupancy.* The borrower will not discriminate or permit discrimination by any agent, lessee or other operator in the use or occupancy of the housing or related facilities because of race, color, religion, age, sex, marital status, handicap or national origin, in accordance with Subpart E of Part 1901 of this chapter.

(i) *Eligibility for occupancy.* Loans will be made on the basis of the housing being occupied by eligible tenants as defined in § 1944.205 of this subpart. Eligible tenants must meet the requirements of Exhibit B of Subpart C of Part 1930 of this chapter.

(1) A group living arrangement may limit occupancy to eligible developmentally disabled persons. This limitation will be outlined in the applicant/borrower's management plan. The following will apply to group living homes:

(i) In many cases, tenants of group homes will be paying more than 30 percent of their adjusted income towards shelter costs. Group homes are unique, serve a special need or purpose and tenants residing in them normally have fewer expenses than typical RRH tenants. Most receive social security and/or other benefits provided by the State. Many also receive small incomes from jobs or training centers.

Therefore, group home tenants can usually afford to pay more than 30 percent of their income towards shelter costs. Tenants should have enough income to pay for shelter costs, personal needs and other needs not covered by the State or organization. This policy of acknowledging prospective tenants who will most likely be paying more than 30 percent of their income towards shelter costs in determining project feasibility and size is only in reference to group homes and is not applicable to the regular RRH and congregate housing programs.

(ii) Tenants of group homes may be encouraged but not required to be a part of an ongoing training or rehabilitation program sponsored by the applicant or other organization.

(iii) The prospective tenants may be selected from the local, regional and/or statewide market area, in that order.

(2) In congregate housing, and housing involving group living arrangements, a further critical dimension is added by the selection and placement of tenants. This involves determining the ability of a tenant with a functional impairment to sustain relative independence, given the supportive service(s) provided. While this determination can be made by the project management, it is recommended that it be made by a professionally qualified tenant selection committee and the decision presented to the project management for acceptance or rejection. This determination can be made in a highly technical fashion using scientifically developed scales of competence in the activities of daily living, or it can be made by social or medical sources. The functional impairments of tenants should be verified by one of the following methods:

(i) Certification by a physician, or State or local agency responsible for supportive services to the tenant as to the tenant's ability to remain independent with assistance from service(s).

(ii) By the use of any objective guide, such as the guides in Exhibit B–10 of Subpart C of Part 1930, and Exhibit B10A of Subpart C of Part 1930, "Type of Living Environment Needed in Relation to Nature and Degree of Disability." These guides can be used by management to assess a person's capacity for personal care and independent or semi-independent living.

(j) *Tenant certification.* Initial certification and recertifications will be executed on Form FmHA 1944–8, "Tenant Certification," in accordance with Exhibit B to Subpart C of Part 1930 of this chapter.

(k) *Supervision of borrowers.* Supervision will be provided borrowers under Subpart C of Part 1930 and Subpart B of Part 1965 of this chapter.

(l) *Establishing profit base on initial investment.* Applicants agreeing to operate on a limited profit basis will be permitted a return not to exceed 8 percent per annum on their initial investment determined at the time of loan approval. This amount will be reflected in the loan agreement or loan resolution and will not be changed once it is determined. The initial investment may exceed the required 5 percent in § 1944.213(a)(2) of this subpart and may include the following:

(1) Cash contributions made by the applicant which, when added to the FmHA loan amount, are not in excess of the security value of the project.

(2) The value of the building site or essential related facilities contributed by the applicant up to the amount which, when added to the FmHA loan amount, is not in excess of the security value of the project. An appraisal will be done by an FmHA employee authorized to make appraisals or an FmHA authorized representative in accordance with applicable FmHA regulations. Value of the applicant's contribution will be determined on an "as is" basis less any amount owed on the property.

(m) *Intergovernmental review.* FmHA will consider comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities," when making decisions on loan applications. (See FmHA Instruction 1940–J, available in any FmHA office.)

(n) *Guidelines for preparing environmental assessments and environmental impact statements.* All

projects will comply with Subpart G of Part 1940 of this chapter.

(o) *National flood insurance.* The provisions of the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 and Executive Order 11988, are applicable to FmHA authorities permitting financing of rental housing now located in, or to be located in, special flood or mudslide-prone areas as designated by the Federal Emergency Management Administration (FEMA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) and Subpart G of Part 1940 of this chapter will apply.

(p) *Location of housing.*

(1) The location of the project should expand the supply of decent, safe, and sanitary housing for very low-, low- and moderate-income elderly persons and families in a nondiscriminatory way. The location should promote a greater choice of housing opportunities in the housing market area.

(2) Project locations should promote an equal opportunity for the inclusion of all groups regardless of race, color, religion, sex, national origin, age, marital status or physical or mental handicap thereby opening up nonsegregated housing opportunities for minorities.

(3) Except as otherwise permitted by paragraph (p)(6) of this section, housing projects must be located in residential areas as part of established rural communities where essential public facilities (such as schools, hospitals and generally central water and sewer systems) and services (such as shopping, medical, and pharmaceutical) are readily available in close and convenient proximity to the site. Public facilities and services must be adequate to support the needs of the tenants and the housing project. (See FmHA Instruction 1922–B, § 1922.55.)

(4) In order to provide housing at the lowest cost possible, preference will be given to loan requests in which specific tracts of land will be donated by States, units of local government, public bodies and nonprofit organizations. The land must be suitable for the proposed housing and meet all FmHA site criteria. In addition, affording such preference must be cost effective.

(5) Noncontiguous sites.

(i) Noncontiguous sites within the same community may be considered if feasible. Each site must meet all FmHA site criteria and an appraisal must be made on each site in accordance with § 1922.55(a)(7) of Subpart B to Part 1922 of this chapter (available in any FmHA office). The units must be managed under one management plan with one loan agreement/resolution.

(ii) If a small community cannot support a project containing enough units to make it cost effective or in cases involving conversion of 502 inventory units, FmHA will consider a project which includes more than one site in the same or different communities. The State Office and applicant must mutually agree that the location of the sites will not adversely effect the efficiency of management and servicing of the projects. The requirements of paragraph (p)(5)(i) of this section will also apply.

(6) FmHA will consider financing new construction or the purchase and rehabilitation of existing structures (in accordance with § 1944.212(b) of this subpart) located in the downtown business areas of rural communities that have established a comprehensive strategy for meeting their community development and housing needs. That strategy must include the redevelopment, rehabilitation, restoration or revitalization of the downtown business area. The proposed project site must be located within the downtown business redevelopment/revitalization area and the following conditions must be met:

(i) Essential public facilities (such as schools, hospitals and generally central water and sewer systems) and services (such as shopping, medical and pharmaceutical) must be readily available in close and convenient proximity to the site and must be adequate to support the needs of the tenants and the housing project.

(ii) The community must have an official short-term community development and housing plan which sets forth its comprehensive strategy for meeting identified community development and housing needs. The plan will include the need for eliminating and preventing economic decay, slums or blight; the need of benefiting the lower-income population; or other community development needs having a particular urgency. The strategy should include a community-wide component which describes the development strategy of the governing body, the major objectives the governing body seeks to accomplish, the priorities it has established, the factors taken into account in selecting areas for treatment and the anticipated public and private sources of funds necessary to conduct the treatment of each area selected. In addition, the plan should contain the following component strategies:

(A) *Neighborhood revitalization:* The strategy for alleviating physical deterioration, maintaining viable neighborhoods and stimulating investment to upgrade neighborhoods affected by blight and deterioration.

(B) *Housing:* The community-wide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. Reference to any current HUD approved housing assistance plan would be helpful as part of this component strategy.

(C) *Economic development:* The strategy for attracting private investment in the business community and for solving the critical problems which may be the result of a stagnating or declining tax base or from population outmigration.

(iii) Evidence must be presented from the local governing body verifying that the community has adopted, through resolution or other official act, the community development and housing plan referenced in paragraph (p)(6)(ii) of this section. A copy of the adopted plan should be made available to FmHA. While it is not necessary that the downtown redevelopment/revitalization area be formally designated as an urban renewal or other similar area, evidence supporting a local determination that the downtown business area meets the criteria established in the community development and housing plan must be maintained in the locality's records. Documentation received from the local governing body must also identify the site or structure involved in the applicant's RRH proposal as part of or essential to the downtown redevelopment/revitalization area.

(iv) Evidence must be presented to FmHA verifying the intended commitment of public and private resources which will be available for completing any other integrally related redevelopment/revitalization activities being undertaken in the downtown business area along with the applicant's proposed RRH project.

(v) Prior review and concurrence must be received from the National Office before the State Director or District Director authorizes the applicant to develop a complete application. All of the information required in paragraph (p)(6) of this section must be provided by the applicant before National Office review.

(7) The property for which a loan is made must be located in a rural area as defined in § 1944.10 of Subpart A of Part 1944 of this chapter. However, if the area where the site is located has changed from rural to nonrural in accordance with the most current official census figures, preapplications received before the date the area was determined nonrural will be processed

as expeditiously as possible and loans closed if the applicants are otherwise eligible.

(q) *Clean Air Act and Water Pollution Control Act Requirements.* When the contract exceeds $100,000, the contractor will comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations 40 CFR Part 15 which prohibit the awarding of nonexempt Federal contracts, grants or loans to facilities included on EPA's list of violating facilities. The contractor will report violations to the EPA.

(r) *Concurrence with construction contracts.* A construction contract between the borrower and contractor for development of an RRH project will contain a provision that it is not in full force and effect until the State Director concurs in writing in the form, content and execution of the contract. Before loan closing or before the start of construction, whichever occurs first, the State Director of his/her delegate will concur with the contract form, content and execution by including the following paragraph at the end of the contract:

The Farmers Home Administration, as a potential lender or insurer of funds to defray the costs of this contract, and without liability for any payments thereunder, hereby concurs with the form, content, and execution of this contract.

Date ————————

Farmers Home Administration

By: ————————

Title: ————————

(s) *Historic preservation requirements.* The District Director must take the necessary action to assure that the applicant will comply with the provisions of Subpart F of Part 1901 of this chapter. This regulation concerns compliance with the National Historic Preservation Act of 1966, the Archeological and Historic Preservation Act of 1974 (Pub. L. 93–291), and Executive Order 11593 dated May 13, 1971.

(t) *Uniform Relocation Assistance and Real Property Acquisition Act of 1970.* Public bodies and agencies which have the power of eminent domain and/or condemnation must comply with the requirements of this Act. The applicant must provide assistance for relocation of displaced persons from a site on which an RRH project will be located. FmHA loan funds may be increased over and above the appraised value of the property to cover costs incurred in the relocation of displaced persons. Until instructions are published by the National Office, the Department regulations found at Part 21 of this chapter should be followed and the National Office should be consulted for guidance in developing an RRH or RCH loan for a project affected by this Act. Generally, if there are alternative sites of equal quality which meet the Agency's requirements, the site with the least relocation impact will be selected.

(u) *Rental assistance (RA) and market feasibility.*

(1) As evidence of market feasibility, an applicant that proposes a project which is expected to use FmHA RA units will only be required to demonstrate that a market exists for tenants eligible for the RA.

(2) To evidence market feasibility for projects which are expected to use RA from sources other than FmHA, applicants will be required to demonstrate that:

(i) The assistance will be provided for at least 5 years.

(ii) A market exists for persons and families eligible for the assistance. The amount of the RA to be provided must be considered when determining the number of families that would be income eligible for the project.

(iii) For the term of the loan remaining after RA is no longer available, an adequate rental market exists for the project without the assistance.

(iv) During the term of the RA contract, the provider will make available the amounts required at least annually.

§§ 1944.216–1944.220 [Reserved]

§ 1944.221 Security.

(a) *Mortgage.* Each loan will be secured in a manner that adequately protects the financial interest of the Government. A first mortgage, except as indicated in paragraphs (a)(1) and (3) of this section, will be taken on the property purchased or improved with the loan.

(1) A second mortgage will be taken on a site developed with prior RRH loan(s) when a subsequent loan is made to complete or finish out units on the site or when a second initial loan is made to develop units on a contiguous site.

(2) Personal liability will not be required for the members or stockholders of any corporation or trust or any partners in a limited partnership. Personal liability will be required of all members of other partnerships. For limited partnerships, the State Director will obtain the advice of the Regional Attorney as to any modifications needed in the promissory note and mortgage.

(3) If it is impossible or inadvisable for an applicant which is a public or quasi-public organization to give a real estate mortgage, the security to be taken will be determined by the National Office upon the recommendation of the State Director. The State Director should consult OGC as to whether the proposed security is legally permissible.

(b) *Financing Statement.* To secure the FmHA loan, each borrower will execute Form FmHA 440–25, "Financing Statement," and a security agreement at loan closing pledging all revenue from the housing project. This includes any FmHA RA payments, State or private RA payments and/or tenant rent payments.

(c) If a bond is used in lieu of a promissory note to evidence a loan, it must be sent to the National Office for review prior to loan closing. OGC must also review the proposed bond.

§ 1944.222 Technical, legal, and other services.

(a) *Appraisals.* When real estate is taken as security, the property will be appraised by the multiple housing appraiser or a designated appraiser authorized to make real estate appraisals. If the security involves two or less rental units, the property will be appraised under Subpart C of Part 1922 of this chapter. For security involving more than two rental units, the appraisal will be made under Subpart B of Part 1922 of this chapter (available in any FmHA office). Form FmHA 426–1, "Valuation of Buildings," will be completed to show the depreciated replacement value of all the buildings existing or to be constructed on the property to be taken as security.

(b) *Architectural and engineering services.*

(1) Housing and related facilities will be planned and developed in accordance with Subparts A and C of Part 1924 of this chapter. The housing will be designed to meet the needs of the types of tenants who will likely occupy it.

(2) A written contract for architectural services will be required as outlined in Subpart A of Part 1924 of this chapter.

(c) *Construction and development policies.* Construction and development will be performed in accordance with Subpart A of Part 1924 of this chapter (FmHA Instruction 1924–A), available in any FmHA office.

(d) *Compliance with Federal, State and local codes, regulations and ordinances.* Planning, construction and operation of housing financed with an RRH loan will conform with applicable laws, ordinances, codes and regulations (including any licensing required governing such matters as construction,

heating, plumbing, electrical installation, fire prevention, health, sanitation, use and occupancy), and must meet all applicable laws and statutes pertaining to the operation of a facility in which some of the tenants may require some supervision and central services.

(e) *Contracts for legal services.* On projects requiring extensive legal services, the applicant must have a written contract if loan funds will be use for these services. All contracts will be subject to review and concurrence by FmHA and should be submitted to FmHA before execution by the applicant. Contracts will provide for the types of services to be performed and the amount of the fees to be paid, either in lump-sum on the completion of all services or in installments as services are performed.

(f) *How to apply for a rural rental housing loan.* Exhibit A may be used as a guide for applicants applying for loans. Extra copies may be obtained from FmHA.

(g) *Optioning of land.* If a loan includes funds to purchase real estate, the applicant must obtain an option on the parcel to be purchased. Form FmHA 440–34, "Option to Purchase Real Property," or other option form with provisions acceptable to FmHA and the applicant may be used. When an option form other than Form FmHA 440–34 is used, a provision should be included indicating that it is contingent upon FmHA making a loan to the buyer. After the loan is approved, the District Director will have Form FmHA 440–35, "Acceptance of Option," or other appropriate form of acceptance completed, signed and mailed to the seller.

(h) *Title clearance and legal services.* When the applicant is an organization or an individual with special title or loan closing problems, title clearance and legal services will be obtained in accordance with instructions from OGC. In other cases, the provisions of Subpart A of Part 1944 and Part 1807 of this chapter (FmHA Instruction 427.1) regarding title clearance and legal services will apply.

(i) *Use of and accountability for loan funds.* Loan funds and any funds furnished by the borrower for eligible loan purposes may be deposited in accordance with the loan agreement or loan resolution and the provisions of Subpart A to Part 1902 and Subpart C to Part 1930. Collateral for deposit of funds will be pledged in accordance with § 1902.7 of Subpart A of Part 1902 of this chapter. Funds furnished by the borrower for the purchase of special equipment and furnishings to be used in connection with the project, for which loan funds cannot be used, should not be deposited in the supervised bank account with loan funds. Withdrawals of funds from the supervised bank account may be made only for eligible loan purposes.

(j) *Insurance.* The loan approval official will determine the minimum amounts and types of insurance the applicant will carry.

(1) Fire and extended coverage will be required on all buildings included in the security for the loan in accordance with Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1) and Subpart C of Part 1930 of this chapter.

(2) Suitable worker's compensation insurance will be carried by the applicant for all its employees.

(3) The applicant will be advised of the possibility of incurring liability and encouraged or required, when appropriate, to obtain liability insurance.

(4) Flood insurance will be required on all buildings located in or to be located in special flood or mudslide prone areas in accordance with Subpart B of Part 1806 (FmHA Instruction 426.2).

(k) *Bonding.*

(1) The provisions of Subpart A of Part 1924 of this chapter pertaining to surety bonds are applicable to RRH loans. When interim financing is used during the construction period, the decision concerning whether or not to require surety bonds is the interim lender's. If the *interim lender* decides not to require surety bonds, a bond waiver is not required from the National Office.

(2) If the applicant is an organization, it will provide fidelity bond coverage for the officials, employees and/or management agents entrusted with the receipt, custody and disbursement of its funds and the custody of any other negotiable or readily salable personal property. The amount of the bond will be at least equal to the maximum amount of money that the applicant will likely have on hand at any one time exclusive of loan funds deposited in a supervised bank account. The United States will be named co-obligee in the bond if not prohibited by State law. Form FmHA 440–24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(l) *Previous participation certification.* All principals and affiliates are required to submit a properly completed Form HUD–2530/FmHA 1944–37, "Previous Participation Certification." Architects and attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals. The forms will be completed and processed in accordance with instructions attached to the form.

§ 1944.223 Supplemental requirements for manufactured home rental project development.

This section includes additional provisions that apply to the making of loans for manufactured home rental project development. This section will apply in addition to all other applicable requirements contained elsewhere in this subpart. All references in this subpart to projects and housing for rent to eligible tenants will also mean the rental of sites with manufactured homes within a rental project development.

(a) *Eligible projects.* When a loan is closed on a manufactured home rental project, the borrower will have constructed and completed, pursuant to a commitment given in accordance with § 1944.235(c)(1) of this subpart, or will be obligated to construct and complete, pursuant to § 1944.235(c)(2) of this subpart, such project designed principally for rental use for manufactured homes, and conforming to the development, installation and set-up requirements of Exhibit J to Subpart A of Part 1924 of this chapter.

(1) The borrower must be the first owner purchasing the manufactured homes for purposes other than resale.

(2) The project must include two or more continguous sites with dwelling units. Each manufactured home unit must not have been previously occupied as a residence or for any other purpose and be less than 1 year old from date of manufacture.

(3) A project is not eligible if the purpose of the loan is to refinance the project, except as provided in § 1944.212(l) of this subpart.

(4) A loan may be made to rehabilitate manufactured home units of an existing project only if the units to be rehabilitated are currently financed by FmHA under this subpart.

(5) An eligible project may include the purchase of the real property of an existing project which will be redeveloped with the placement of new, previously unoccupied, manufactured homes conforming to the development, installation and set-up requirements of Exhibit J to Subpart A of Part 1924 of this chapter.

(b) *Loan limitations.* The maximum loan amount will be determined in accordance with § 1944.213(a) (1) or (2) of this subpart as applicable.

(c) *Rates and terms.* The amortization period of each loan will not exceed the economic life of the security, taking into account probable depreciation. However, under no circumstance will

the amortization period for a loan made under this section exceed 30 years from the date of the promissory note.

(d) *Security.* A mortgage or deed of trust will be taken on the entire property purchased or improved with the loan. The encumbered property must be covered under a standard real estate title insurance policy or attorney's title opinion that identifies the project (including the manufactured homes) as real property and insures or indemnifies against any loss if the manufactured home is determined not to be part of the real property. The property must be taxed as real estate by the jurisdiction where the project is located if such taxation is permitted under applicable law when the loan is closed.

(e) *Property requirements.*

(1) Construction and developoment of the project, including related facilities constructed or erected on the security property, will be in accordance with § 1944.222(d) of this subpart and Exhibit J to Subpart A of Part 1924 of this chapter.

(2) Manufactured home rental projects will be designed to provide for a desirable residential environment. Innovative and imaginative design is encouraged. Stylized patterns and monotony will be avoided. All property improvements will relate to the individual characteristics of the land. The project, including structures, streets, and all site improvements, should be harmoniously, efficiently, and conveniently arranged in relation to the topography and the shape of the property.

(3) The borrower will not use or permit the use of any portion of the security property for demonstrating mobile home models for sale promotion purposes.

(4) The manufactured home, when placed on site, will have floor space area of not less than 400 square feet, and a width of 12 feet or more for single wide and 20 feet or more for a double wide unit. The unit must:

(i) Be placed on a site-built permanent foundation that meets or exceeds applicable requirements of the FmHA adopted standards which are identified in Exhibit J to Subpart A of Part 1924 of this chapter or other building codes approved by FmHA.

(ii) Be permanently attached to the foundation by anchoring devices adequate to resist all loads identified in Exhibit J to Subpart A of Part 1924 of this chapter or other building codes approved by FmHA.

(iii) Be constructed in compliance with FmHA thermal performance construction standards as specified in Exhibit D to Subpart A of Part 1924 of this chapter. The unit must have an affixed label as specified in paragraph XIV(c)(3) of Exhibit F to Subpart A of Part 1944 of this chapter indicating that the unit is constructed to FmHA thermal requirements for the appropriate winter degree days.

(iv) Be constructed in compliance with applicable standards and manuals adopted by FmHA as evidenced in Part A, paragraph V of Exhibit J to Subpart A of Part 1924 of this chapter. All units must conform to the HUD "Federal Manufactured Home Construction and Safety Standards," and be identified by an affixed certification label according to Exhibit J to Subpart A of Part 1924 of this chapter.

(f) *Special warranty requirements.* The general contractor or dealercontractor, as applicable, must provide a warranty in accordance with the provisions of § 1924.9(d) of Subpart A of Part 1924 of this chapter.

(1) The warranty will provide that the manufactured homes, foundations, positioning and anchoring of the units to their permanent foundations, and all contracted improvements are constructed in substantial conformity with applicable approved plans and specifications.

(2) The warranty will also include provisions that the manufactured homes sustained no hidden damage during transportation and, for double-wide units, that the sections were properly joined and sealed.

(3) The general contractor or dealer-contractor must warrant that the manufacturer's warranty is in addition to and not in derogation of all other warranties, rights and remedies that the borrower may have.

(4) The seller of the manufactured homes will deliver to the borrower the manufacturer's warranty. The warranty will identify the units by serial number.

§§ 1944.224–1944.230 [Reserved]

§ 1944.231 Processing preapplications.

Preapplications will be processed in accordance with this section to assure that loan funds are used, to the extent possible, to provide housing for eligible tenants in need of adequate housing. Preapplication information is used to determine the applicant's eligibility, project feasibility and priority for available funds, thereby eliminating proposals which have little or no chance for funding in the near future. Information necessary in a preapplication consists of Form AD–621, "Preapplication for Federal Assistance," and all additional information and material outlined in Exhibit A–6. Preapplications should be filed in the FmHA District Office.

(a) *Actions by the District Office.*

(1) The District Director should handle initial inquiries and provide basic information about the program. He/she should provide the preapplication form (Form AD–621), Exhibit A–6 to this subpart and Form FmHA 1940–20, "Request for Environmental Information." The District Director may assist applicants in completing Form AD–621 and the information required in Exhibit A–6. He/she should advise the applicant not to prepare or develop an application until notified by FmHA to proceed.

(2) Upon receipt of the Form AD–621 and all other required information and materials, the District Director will thoroughly review the package for completeness, accuracy, eligibility, and conformance with program policy and regulations. Incomplete preapplications will be returned to the applicant for completion. In cases where the District Director determines the applicant not eligible, he/she will inform the applicant by issuing Form AD–622, "Notice of Preapplication Review Action," and include the applicant's appeal rights in accordance with Subpart B to Part 1900 of this chapter.

(3) The District Director should check the Multi-Family Housing Information Status Tracking and Retrieval System (MISTR) to see if the applicant has pending preapplications in other districts or States. If so, the District Director should be sure that the applicant's pro forma statement shows that the applicant has the financial strength to meet the requirements of all preapplications.

(4) All preapplications determined eligible and feasible by the District Director will immediately be rated in accordance with the priority processing system established in this subpart. Processing of loan requests within annual allocations will be based on the priority points received.

(i) *Projects in areas or communities having a high percentage of substandard housing.* For this purpose, each State will use the county data based on the latest published census unless better and more specific statewide data is available. Some counties with a low percentage of substandard housing have areas with a substantially higher percentage of substandard housing. In these cases, you may use reliable income data for those specific communities/areas for assigning points. If the State mean of substandard housing exceeds 15 percent, use Chart A. If the State mean is 15 percent or less,

use Chart B. Forty points to be distributed in the following manner:

A	B	Points
Over 34 pct	Over 18 pct	40 points.
31–34 pct	17–18 pct	35 points.
27–30 pct	15–16 pct	30 points.
23–26 pct	13–14 pct	25 points.
19–22 pct	11–12 pct	20 points.
15–18 pct	9–10 pct	15 points.
11–14 pct	7–8 pct	10 points.
7–10 pct	5–6 pct	5 points.
0–6 pct	0–4 pct	0 points.

(ii) *Projects in areas or communities having the lowest median rural household income.* For this purpose, each State will use county data based on the latest published census unless better and more specific Statewide data is available. Some counties with high median incomes have areas of substantially lower income. In these cases, you may use reliable income data for those specific communities/areas for assigning points. Thirty points to be distributed in the following manner:

Less than 75% of State household income—30 points
75–79.....25
80–84.....20
85–89.....15
90–94.....10
95–100.....0

(iii) *Projects which will serve the needs of rural communities located a number of miles from the FmHA eligibility line around urban areas considered ineligible for FmHA housing loans as determined by § 1944.10 of Subpart A of Part 1944 of this chapter.* Twenty points to be distributed based on map mileage from project site to urban area line over normally traveled roads in the following manner:

20 or more miles—20 points
15–19.....15
10–14.....10
5–9.....5
0–4.....0

(iv) *Projects located in communities or market areas which do not have subsidized rental housing in operation or authorized.* Ten points to be distributed in the following manner:

No subsidized rental housing project—10 points
No subsidized rental housing project of the same type (elderly, congregate, group type living, or family) as proposed—5
Existing or authorized rental project of the same type as proposed—0

(v) *Projects assured of having National Office approved rental subsidy from sources other than FmHA.* Twenty points will be distributed in the following manner:

51–100 percent of units—20 points
21–50 percent of units—15
10–20 percent of units—10
0–9 percent of units—0

(vi) *Projects designed and planned for elderly persons.* Ten points will be distributed in the following manner:
Elderly projects—10 points
Other type projects—0

(vii) *Projects in which specific tracts of land will be donated in accordance with § 1944.215(p)(4) of this subpart.* Five points will be distributed in the following manner:
Projects with donated land—5 points
Other type projects—0

(viii) In situations where priorities among competing loan requests are essentially equal, preference will be given to preapplications from public bodies and nonprofit corporations.

(ix) In other cases where requests are essentially equal, preference will be given to preapplications based on preapplication date.

(5) The District Director must compare the rated preapplications with other rated preapplications on hand. He/she must make a conscientious analysis of which loans will be able to be funded and document his/her analysis.

(6) Preapplications with an exceptionally low priority rating which are not likely to be funded within the next 12 months will be returned to the applicant with an indication of eligibility and informed that the priority rating is too low for processing. The District Director may, if appropriate, indicate ways to increase the priority rating.

(7) The District Director will fully review the remaining rated preapplications to determine feasibility. In cases where the application is determined to be infeasible, he/she will inform the applicant by using Form AD–622 and include the applicant's appeal rights in accordance with Subpart B to Part 1900 of this chapter.

(8) After determining the priority ranking of the preapplication, the District Director should record the points earned on Form FmHA 1905–11, "Application and Processing Card—Association," in column 1 immediately following the applicant's name.

(9) After completing the review and ranking in accordance with the priority processing system established in this subpart, the District Director will proceed as follows based on the application processing levels prescribed by the National Office:

(i) In States that allocate funds to districts:

(A) The District Director will select the highest ranking preapplications up to the prescribed processing levels for the district. Applicants having eligible preapplications that do not rank high enough and future applicants having eligible preapplications will be notified using Form AD–622 of their eligibility but advised that processing priorities and current funding levels will not permit further processing of their preapplication at this time. These preapplications will be ranked numerically based on their rating. As applications are approved, withdrawn or rejected and/or annual allocations increased which permit further authorizations, the applicant having the preapplication with the next highest numerical ranking will be contacted. If the factors supporting the ranking still exist, authorization to develop an application will be given.

(B) Preapplications within the District Director's approving authority will be reviewed in accordance with the provisions in § 1944.231(b) of this subpart. Applicants with the selected preapplications will be notified using Form AD–622 of their eligibility and feasibility and advised to develop an application. At this point, the District Director should provide the applicant with a copy of the Multiple Housing Management Handbook, Exhibit B of Subpart C of Part 1930 of this chapter.

(C) Selected preapplications in excess of the District Director's approval authority will be submitted to the State Office for review. The applicant will be notified in writing of this action.

(ii) In States that do not allocate funds to districts:

(A) The District Director will assemble the preapplication in a case file and forward the following to the State Director:

(*1*) Form AD–621.

(*2*) All information and material listed in Exhibit A–6.

(*3*) Original and one copy of Form FmHA 1940–21, "Environmental Assessment for Class I Action," or Exhibit H, depending on whether the assessment is a Class I or Class II action in accordance with Subpart G of Part 1940 of this chapter.

(*4*) The District Director's comments on eligibility and his/her recommendations.

(*5*) Comments and recommendations concerning the proposed project site resulting from an onsite visit to determine its overall desirability and conformance with the site location requirements indicated in § 1944.215(p) of this subpart.

(*6*) An updated copy of Form FmHA 1905–11.

(B) No Form AD–622 will be issued by the District Director until notified by the State Director.

(b) *Actions by the State Office.*

(1) Unless the applicant is an individual or an organization adopting without change the articles and bylaws prescribed by Exhibits C and D of this subpart or by State supplements or has received clearance from OGC for the same type of financing, the documentation necessary to make an eligibility determination and any questions or comments of the State Director will be submitted to OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(2) The State Director will evaluate the preapplication and the District Director's eligibility and feasibility determination and recommendation. The evaluation will include a review of the proposed development by the State Office architect who will advise the State Director on the acceptability of the proposed development.

(3) Selected preapplications that exceed the State Director's approving authority will be sent to the National Office for evaluation, authorization and guidance. When preapplications are submitted to the National Office, the following information must be included in the submission:

(i) The complete and properly assembled preapplication case file.

(ii) The schematic or preliminary drawings and specifications, together with the architectural comments and recommendations of the State Office architect.

(iii) The information required by § 1944.213(a) of this subpart.

(iv) The District Director's comments and recommendations.

(v) The State Director's comments and recommendations.

(4) In States that allocate funds to districts, the State Director will notify the District Director of the review results. The State Director will return the preapplication and the executed original Form FmHA 1940–21 or Exhibit H of Subpart G of Part 1940 of this chapter, as appropriate, to the District Office with authorization for the District Director to prepare and issue Form AD–622.

(5) In States that do not allocate funds to districts, the State Director should proceed as follows:

(i) After reviewing the priority rating of the preapplication, the State Director should rank and record the points earned on Form FmHA 1905–11. This form will be maintained in the State Office.

(ii) The State Director will select the highest ranking preapplications up to the prescribed processing levels for the State. Applicants having eligible preapplications that do not rank high enough and future applicants having eligible preapplication will be notified through the district office, using Form AD-622, of their eligibility but advised that processing priorities and current funding levels will not permit further processing of their preapplications at this time. These preapplications will be ranked numerically based on their rating. As applications are approved, withdrawn or rejected and/or annual allocations increased which permit further authorizations, the applicant having the preapplication with the next highest numerical ranking will be contacted. If the factors supporting the ranking still exist, authorization to develop an application will be given.

(iii) The State Director will return the preapplication and the review results to the district office. For selected preapplications, the State Director will execute the original Form FmHA 1940–21 or Exhibit H of Subpart G of Part 1940 of this chapter, as appropriate, with authorization for the District Director to prepare and issue Form AD–622.

(c) *Summary.* The District Director will prepare Form AD–622, stating the results of the review. The original will be signed and delivered to the applicant, with a copy to the applicant's case file and a copy to the State Director.

(1) Applicants with preapplications which are not favorably considered will be notified in writing of the reasons why the request was not favorably considered and informed in accordance with Subpart B of Part 1900 of this chapter that they may request a further review of this decision.

(2) Applicants with preapplications which are eligible and feasible, but are unable to be selected for further processing, will be notified that their preapplications were determined eligible but lacked sufficient priority to authorize further processing at the present time. Applicants should be advised that their preapplication will be retained and considered for future funding based on its rating. If funding is not authorized within one year from the date of the Form AD–622, applicants will be notified in writing that their preapplication will no longer be considered unless it is resubmitted or updated. In addition, until loan funds are available, applicants will be advised against incurring obligations for legal, architectural and engineering work, perfecting interests in land rights and inviting construction bids or making other commitments which cannot be fulfilled without loan funds.

(3) When an applicant is notified to proceed with an application, the District Director should establish specific deadlines for developing the proposal to avoid unreasonable delays by applicants not prepared to proceed. In addition, the following paragraph should be contained on or attached to Form AD–622:

(i) "The review action taken by FmHA is based on representations made in your preapplication presented to FmHA. Any changes in approximate project costs, size or scope of the project, rental rates to the tenants or subsidy costs to the Government, scope of services, sources of funds, or any other significant changes in the project or applicant must be reported to and approved by FmHA in writing."

(ii) "Any changes not approved by FmHA will be cause for FmHA to discontinue processing the application." All applicant requesting changes will be required to give full justification for each change and, if FmHA approval is not given, written reasons should be provided along with a 30-day negotiation period to resolve the differences."

(iii) "This action is not to be considered as loan approval or as a representation of the availability of funds."

(iv) "The loan docket may be completed on the basis of a loan not to exceed the amount on Form AD–622."

(v) "If a complete application has not been developed in approvable condition by the date specified on Form AD–622, FmHA reserves the right to discontinue processing the application."

§ 1944.232 Rental assistance (RA) from sources other than FmHA.

RA from sources other than FmHA may be used in new or existing RRH projects. It may be used alone or may be combined with FmHA RA.

(a) *Provisions of memorandum of understanding.* FmHA will consider entering into a memorandum of understanding with other providers of RA, such as State or local public entities, profit or nonprofit organizations, individuals or other providers acceptable to FmHA. The memorandum of understanding will be executed between FmHA and the provider prior to the State Director issuing Form AD–622 for new projects. At a minimum, the memorandum of understanding must contain the following provisions:

(1) The dollar amounts of RA per unit and the length of time of RA will be provided.

(2) A copy of the proposed RA agreement, which is the instrument of agreement involving the tenants, owner and provider of assistance. FmHA will

not be a party to the RA agreement nor have any responsibilities under the agreement. The RA agreement must state that:

(i) The payments should be paid directly to the tenants or the owner, who must advise the tenants of the amount and source of the assistance through the lease or a supplement to the lease.

(ii) Sufficient funds will be set aside in a way that assures availability of RA for the life of the RA agreement, which must be for at least 5 years. The method of supplying the funds must be clearly set forth.

(b) FmHA will provide reasonably required information including the tenant eligibility certification needed to execute the provisions of the RA Agreement and the memorandum of understanding.

(c) The memorandum of understanding (including the RA agreement) must be submitted by the State Director to the National Office for concurrence prior to execution with the provider of the RA. If the memorandum of understanding encompasses multiple projects and/or multiple borrowers, you must request blanket authorization for all projects covered by the memorandum of understanding instead of submitting each preapplication to the National Office.

§§ 1944.233–1944.234 [Reserved]

§ 1944.235 Actions subsequent to loan approval.

(a) *Precommitment or closing actions.* After loan approval, the loan docket will be processed to the stage where a construction loan would normally be closed prior to the start of construction. During this processing, the following actions should be taken:

(1) The applicant must execute the appropriate loan agreement or loan resolution required in accordance with § 1944.215(f) of this subpart.

(2) FmHA will obtain closing instructions from OGC in accordance with the requirements of Part 1807 of this chapter (FmHA Instruction 427.1) and § 1944.236(a) and § 1944.246(b)(4) of this subpart.

(3) Unless initial operating and maintenance capital is included in the loan, the applicant will furnish evidence of the deposit of initial operating and maintenance capital into the general fund account of the project.

(4) The applicant will provide evidence indicating the terms and final arrangements for interim financing.

(b) *Transfer of obligations.* The transfer of fund obligations may occur only when:

(1) *Organizational entity remains the same.* The entity remains legally the same but a substitution of the members occurs. All or part of the membership may change as long as eligibility is not affected. The project site location and market must remain the same.

(2) *Organizational entity changes.* The membership and their interests remain identical, the project site location and market are the same, but the legal entity changes.

(c) *Financing during the construction period.*—(1) *Interim financing.* When the amount of the RRH loan exceeds $50,000, the applicant should obtain interim financing from commercial or public sources for the construction period if it can be obtained at reasonable interest rates. Interim financing will be obtained to preclude the necessity for multiple advances of FmHA funds. Interim financing will be used subject to the following:

(i) FmHA will proceed as if FmHA funds had been advanced from the standpoint of approving construction contracts, inspection of construction and assuring compliance with applicable equal opportunity and nondiscrimination.

(ii) The guide letter shown as Exhibit B of this subpart will be used to inform a proposed interim lender that a specified amount of funds have been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions, the builder's performance is acceptable and all construction bills are paid.

(iii) Since FmHA's commitment to the applicant is contingent upon acceptable performance by the builder and payment of all construction bills, the interim lender should be advised of the additional risk involved if the builder is unable to provide, or the interim lender does not require a payment and performance bond. Although partial payments to the builder constructing the project by the contract method of construction must be made in accordance with the approved construction contract, the interim lender should not be permitted to make disbursements of more than 90 percent of the value of acceptable work in place.

(iv) Any cash for land purchase or development that is to be furnished by the applicant in fulfillment of the applicant's contribution requirement in § 1944.213(a)(2) of this subpart must be placed on deposit with the interim lender and disbursed prior to any disbursement of interim loan funds. Obligations incurred prior to loan closing and the start of construction will be handled in accordance with § 1944.213(c).

(v) A supervised bank account need not be established for funds obtained through interim financing except for any small amounts held to complete construction so loan funds can be fully advanced and AED can be established. However, in order to assure that funds are requested and used for authorized purposes, requests for partial payments will be submitted through the District Director on Form FmHA 1924–18, "Partial Payment Estimate," or other professionally recognized form containing the certifications of the architect, applicant and FmHA representative shown on Form FmHA 1924–18. For recordkeeping purposes, Form FmHA 402–2, "Statement of Deposits and Withdrawals," should be used to record the deposit of applicant funds for construction with the interim lender and payments of estimates where FmHA has approved the estimate.

(vi) When the project is substantially complete, the FmHA loan may be scheduled for closing. A project is substantially complete when it is possible, in accordance with any contract documents, applicable State or local codes or ordinances and the FmHA approved drawings and specifications, to permit safe and convenient occupancy and use of the buildings. Upon substantial completion, the owner's architect must issue a dated and signed statement certifying to substantial completion. The owner's architect will also prepare and verify a punch list of any minor items of development that need to be corrected and completed.

(vii) The FmHA loan may be closed, permanent instruments issued to evidence the FmHA indebtedness and FmHA loan funds used to retire the interim indebtedness when the project is substantially complete and all bills have been paid. To evidence that there are no unpaid obligations outstanding in connection with the project, the applicant must submit to the District Director, at or prior to loan closing, signed statements from the contractor, architect, engineer and attorney indicating that obligations for material, labor or services have been paid in full in accordance with their contracts or other agreements, less any funds withheld for minor punch list items. Form FmHA 1924–10, "Release by Claimants," or other similar form may be used for this purpose. If these statements cannot be obtained, the loan may be closed if all of the following can be met:

(A) Statements to the extent possible are obtained.

(B) The interests of FmHA can be adequately protected and its security position is not impaired.

(C) Adequate provisions are made for paying the unpaid accounts by withholding or escrowing sufficient funds to pay such claims or obtaining a release bond.

(2) *Multiple advances of RRH loan funds.* If interim financing is not available and the applicant supplies such evidence, multiple advances will be used subject to the following:

(i) In cases where relatively large amounts of funds are to be expended for purchases of real estate or for other reasons at the time of closing, separate checks for these purposes may be ordered and endorsed by the borrower to the seller or other appropriate party. This will preclude the necessity for depositing these loan funds in the supervised bank account and reduce the amount of required collateral.

(ii) Except as indicated in paragraph (c)(2)(i) of this section, advances will be made only as needed to cover disbursements required by the borrower for a 30-day period. Normally, there should be no more than 24 advances. These advances should generally be used within 2 years of loan closing. The retained percentage withheld from the contract to assure that construction will be completed in accordance with the contract documents will ordinarily be included in the last advance. Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, land purchase, legal, engineering or architectural costs, interest and other expenses as needed. The borrower will prepare Form FmHA 440–11, "Estimate of Funds Needed for 30-day Period Commencing _____," modified as needed, to show the amount of funds required during the 30-day period. This form will be approved by the District Director or his/her designee.

(iii) After it is determined that the estimate prepared by the borrower is adequate, the advance will be requested through field office terminals in accordance with the MFH user procedure. As an example, for a loan of $100,000, the advances may be made as follows: Assuming that the loan will be closed on July 1, the borrower will complete Form FmHA 440–11 in sufficient time so that the funds will be available on the day of loan closing. The estimates should be broken down for the first advance in a manner similar to the following:

Construction	$30,000
Land Acquisition	5,000
Architectural	4,000
Legal	1,000
Total	$40,000

An advance of $40,000 would then be available on July 1, the date of loan closing.

(iv) The second advance is also based on the borrower's estimate prepared on Form FmHA 440–11 which must be prepared in sufficient time so that the estimated amount of funds will be available on August 1. This estimate of funds might be broken down as follows:

Construction	$20,000
Architectural	1,000
Total	$21,000

(v) When the project is substantially complete in accordance with § 1944.235(c)(i)(vi), schedule final payment to the contractor for disbursement. Withhold funds over the amount needed to cover the costs for correcting or completing the minor items identified from the contractor's final payment in accordance with the requirements of Subpart A to Part 1924 of this chapter until full performance. Any funds withheld should be deposited in the supervised bank account so the loan can be fully advanced and AED can be established.

(vi) If funds remain after the loan is fully disbursed and AED has been reached, they must be put into a supervised bank account. The funds cannot be returned on the loan to be drawn later since AMAS will treat as a refund.

(vii) Any deviation from the multiple advance procedure must have the prior approval of the National Office.

(d) *Requesting the check.* When loan approval conditions can be met, including any real estate lien required, and a date for FmHA loan closing has been agreed upon, the District Director will determine the amount of funds needed in accordance with paragraph (c)(1) or (c)(2) of this section. The District Director or his/her designee will then order the loan check through field office terminals so that it will be available on or just before the date set for loan closing.

(e) *Increase or decrease in the amount of the loan.*

(1) If it is necessary to increase the amount of the loan within *the same fiscal year* but before loan closing, the loan approving official or District Director will request that all distributed docket forms be returned to the district office. The loan docket will be revised accordingly and reprocessed provided no funds have been disbursed. The State Office, through a field office terminal, must deobligate the existing obligation and enter the new amount to be obligated.

(2) If it is necessary to increase the amount of the loan in *the next fiscal year* but before loan closing, the District Director must process a subsequent loan for the amount of increase.

(3) If it is necessary to decrease the amount of the loan before closing, the deobligation will be processed through field office terminals.

(f) *Cancellation of the loan.* Loans may be canceled after approval and before loan closing in accordance with instructions on the Form Manual Insert (FMI) for Form FmHA 1944–53, "Multiple Family Housing Cancellation of U.S. Treasury Check and/or Obligation."

(1) *Treasury check method.* If the loan check is received in the District Office, the District Director will return the check to the Finance Office with an original and one copy of Form FmHA 1944–53, unless it was issued by the National Finance Center (NFC). If the check was issued by NFC, cancel under FmHA Instruction 2024–P (available in any FmHA Office).

(2) *Electronic wire transfer method.* The District Director should request the financial institution to mark it "void" and issue a check payable to FmHA. This check will be endorsed and deposited through the concentration banking system. An original and one copy of Form FmHA 1944–53 will be sent to the Finance Office.

(3) *Notification.* Notify all interested parties of cancellation as provided in Part 1807 of this chapter (FmHA Instruction 427.1). Unless the cancellation of the loan is by mutual agreement, notify the applicant that the decision may be appealed in accordance with Subpart B to Part 1900 of this chapter.

(g) *Handling the loan check.* The loan check will be handled in accordance with paragraph IV of FmHA Instruction 102.1 (available in any FmHA office and Subpart A of Part 1902 of this chapter.

(h) *Prerent-up conference.* To promote proper planning for initial rent-up and occupancy, the District Director will meet with the applicant and management firm, if any, soon after loan approval. Among the items that should be discussed are the advertisement of available units, the affirmative fair housing marketing practices, tenant eligibility and tenant selection criteria.

(1) The District Director will review the applicant's marketing plan to determine that it is complete and all supplemental information is provided. If the plan needs to be modified before marketing activity begins, approval must be granted from the official authorized to approve the loan. The District Director will review the approved operating budget to determine if it is still adequate for the initial operating period. If it is not adequate, a rent change will be made according to Exhibit C of Subpart C to Part 1930 of this chapter.

(2) The District Director should be assured that the applicant will sincerely direct marketing activity in an effort to attract applications for housing from all groups in the market area. If it is anticipated that applications for housing may result in a concentration of occupancy by race, color, religion, sex or national origin, outreach efforts will be extended to persons who would not be expected to apply for the housing. The efforts will be conducted for a reasonable period of time prior to the normal period for receipt of applications and commencing not less than 90 days prior to project completion.

(3) Prior to initial occupancy by any tenant, the District Director and the applicant will reconvene to assess implemented marketing activity by thoroughly reviewing the marketing plan, anticipated occupany results and the extent of achievement of plan objectives. If original marketing concepts prove to be less than effective and/or if there are changes in the housing markets, the applicant may be required to modify the marketing plan for the project. If the District Director determines that the applicant is in noncompliance with the plan and a modification to the plan is not warranted, the matter will be referred to the FmHA Administrator, attention Equal Opportunity Staff Director, through the State FmHA compliance officer.

§ 1944.236 Loan closing.

(a) *Applicable regulations.* RRH loans will be closed in accordance with Part 1807 of this chapter (FmHA Instruction 427.1) and any State supplements. Loan dockets for organization and, in special cases, dockets for individuals will be sent through the State Office to OGC for closing instructions. A profit or limited profit organization or individual applicant may use any designated attorney or title insurance company to close the loan in accordance with the applicable loan closing instructions if the attorney or title insurance company and its principals or employees are not members, officers, directors, trustees, stockholders or partners of the applicant entity. Nonprofit organizations may use a designated attorney who is a member of their organization if the cost is in accordance with § 1944.212(j) of this subpart.

(b) *Mortgage.* Unless OGC determines the form to be inappropriate, Form FmHA 427–1 (State), "Real Estate Mortgage for _____," will be used. For loans to organizations, Form FmHA 427–1 will be modified as prescribed by or with the advice of OGC with respect to the name, address and other identification of the borrower, the style of execution and the acknowledgment.

(1) The mortgage or other instrument will contain the following covenant:

> The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 and the regulations issued pursuant thereto for as long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for as long as the purchaser owns it, whichever is longer.

(2) When a loan resolution or loan agreement is used, include an additional paragraph in the mortgage to read as follows:

> This instrument also secures the obligations and convenants of borrower set forth in borrower's Loan Resolution (Loan Agreement) of (*Date*), which is hereby incorporated herein by reference.

(3) For a loan to an individual when a loan agreement is not used, additional paragraphs will be included in the mortgage to read as follows:

(i) "Occupancy of the housing and related facilities on the property will be limited to eligible tenants as defined in the regulations of the Farmers Home Administration unless the Government gives prior written approval to other occupancy."

(ii) "As required by the Government: Borrower will permit the Government to inspect and examine the operation of the housing and the books, records, and operations of borrower; submit regular and special reports pertinent to the purpose of the loan or the Government's financial interest; subject rents and charges and other terms of rental agreements with tenants of the housing, and compensation to employees connected with its operation, to prior approval by the Government, or to adjustment at the direction of the Government when necessary in its judgment to carry out the purpose of the loan or protect its financial interests; and comply with any other requirements which in the discretion of the Government are reasonably appropriate to the purpose of the loan or protection of the Government's interests. Revenue from the housing will be first used to pay operation and maintenance costs of such housing and to make adequate provision to meet required payments as they become due on the FmHA rural rental housing loan."

(4) For a loan to a limited partnership, the following nonrecourse language should be inserted, subject to modification by the OGC:

> No partner, either general or limited, will have any personal liability for the payment of all or any part of the indebtedness.

(5) For all section 515 RRH loans, the following language will be included in the mortgage:

> The borrower and any successors in interest agree to use the housing for the purpose of housing people eligible for occupancy as provided in section 515 of Title V of the Housing Act of 1949 and FmHA regulations then extant during this _____ (15 years for unsubsidized and 20 years for subsidized loans) year period beginning _____ (the date the last loan on the project is closed). No person occupying the housing will be required to vacate prior to the close of such _____ (15 years for unsubsidized and 20 years for subsidized loans) year period because of early repayment. The borrower understands that should an unsubsidized project be converted to subsidized within 15 years from the date the last loan on the project is closed, that the period will be increased by 5 years. The borrower will be released during such period from these obligations only when the Government determines that there is no longer a need for such housing or that Federal or other financial assistance provided to the residents of such housing will no longer be provided. A tenant may seek enforcement of this provision as well as the Government.

(c) *Promissory note.*

(1) Form FmHA 1944–52, "Multiple Housing Promissory Note," will be used. Regular amortized payments for principal and interest will be scheduled on a monthly basis. Instruction for preparation in the FMI for the note will be followed.

(2) The amount to be shown on the note will be obligated amount as shown on Form FmHA 1944–51, "Multiple Family Housing Obligation-Fund Analysis." The note will be dated the date of loan closing except as authorized in Part 1807 of this chapter (FmHA Instruction 427.1). If the first day of the month falls on Saturday, Sunday or a holiday, the note may be dated the first, loan closing will be the last working day prior to the first and the closing documents will be filed on the first working day following the first.

(3) Payments on RRH loans will be scheduled on the note in accordance with the FMI and as provided in § 1944.215(d) of this subpart.

(4) The note(s) will be signed in accordance with the FMI and Part 1807 of this chapter (FmHA Instruction 427.1).

(5) All loans will be closed on PASS as described in Subpart K of Part 1951 of this chapter. If the loan is a subsequent loan, all other loans on the project must be converted to PASS.

(6) All RRH loans to be secured by revenue bonds or other forms of security other than a real estate mortgage or deed of trust will be sent to the National Office prior to loan approval with all necessary information for review and further instructions.

(d) *Recorded mortgage.* When the real estate mortgage is returned by the recording official, the District Director will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy, including the recording data showing the date and place of recordation and book and page number, will be prepared and filed in the borrower's case folder. A copy of the mortgage, conformed as to all matters except the recording date, will be delivered to the borrower.

(e) *Date of closing—establishment of account.*

(1) An RRH loan is considered closed when the security instrument is filed of record or, if no security instrument is filed of record, when the loan funds are deposited in the supervised bank account or otherwise made available to the borrower after the borrower executes and delivers the note and any other required instruments.

(2) After the loan is closed, the account and case folder will be established at the district office following the requirements of FmHA Instructions 1905–A and 2033–A (available in any FmHA office).

§ 1944.237 Subsequent RRH loans.

(a) A subsequent RRH loan is a loan made to an applicant/borrower to complete, improve, repair and/or expand the project initially financed by FmHA.

(b) If the designation of an area changed from rural to nonrural after the initial FmHA loan was made, a subsequent loan can be made, only to make necessary improvements and repairs to the property.

(c) In case where the loan is to complete the original housing under the initial FmHA loan:

(1) If the applicant/borrower provided an initial investment greater than the 5 percent required under the intial FmHA loan, the excess may be credited toward the required 5 percent initial investment of the subsequent loan; the applicant/borrower should only be required to put up additional funds for this purpose if needed. The same applies to initial O and M requirements.

(2) If the initial 5 percent investment and 2 percent O and M amounts are sufficient to cover only the initial FmHA loan, the applicant/borrower must provide the additional 5 and 2 percent amounts to cover the subsequent loan.

(d) If the loan is to repair and/or improve an existing project which has been in operation for some time, then:

(1) The applicant/borrower should not be required to provide the initial 2 percent O and M amount since its purpose is to cover project start-up costs.

(2) The applicant/borrower must provide the initial 5 percent investment unless it provided more than the required 5 percent when the initial loan was made. When the applicant/borrower has more than 5 percent invested in the initial loan, the excess may be credited toward the required 5 percent investment for the subsequent loan. The applicant/borrower should be required to contribute additional funds only if needed. The applicant/borrower will not be given consideration for any increased equity or value that the property may have since the date of the initial FmHA loan.

(e) A subsequent loan will be subject to the restrictive use provisions cited in § 1944.236(b)(5) if this subpart. The cited language for the subsequent loan only must be appended to the mortgage referencing all notes for a term beginning on the date of loan closing. The advice of OGC should be sought in carrying out the provisions of this paragraph.

§ 1944.238 [Reserved]

§ 1944.239 Complaints regarding discrimination in use and occupancy of RRH.

Any tenant or applicant for occupancy or use of RRH or related facilities who believes he/she has been discriminated against because of age, race, color, religion, sex, martial status, handicap or national origin may file a complaint with the Secretary of Agriculture (or with the Office of Equal Opportunity), U.S. Department of Agriculture, Washington, DC 20250. If a complaint is made to an FmHA County, District or State Office, it should be directed to the Office of Equal Opportunity (USDA–OEO) by the FmHA employee in charge of that office. If the complaint is sent to USDA–OEO by a County or District Office, the State Director will be made aware of the complaint.

(a) It is preferred that the complaint be in writing and signed by the complainant. The complaint may, however, be telephoned to the FmHA district office. The complainant should provide the following information:

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) If a complaint is received by an FmHA office, the County Supervisor, District Director, or State Director will acknowledge receipt of the complaint and promptly send it to the USDA OEO, Washington, DC 20250.

(c) Accompanying the complaint should be a statement from the District Director or State Director as to whether the security instrument or other document executed by the borrower contains a nondiscrimination agreement. The statement also should include any other information which the District Director or State Director has pertaining to the complaint. The District Director or State Director should delay a comprehensive investigation of any complaint until requested to do so by the National Office.

(d) The USDA OEO will determine whether discrimination occurred. Appropriate steps will be taken to ascertain the essential facts. The USDA OEO will handle complaints in accordance with Department regulations, which are found at 7 CFR 15.6.

(e) If it is found that the complaint is without substance, the parties concerned will be so notified.

(f) If it is found that the borrower's discrimination agreement in the security instrument or elsewhere was violated, FmHA will inform the parties of such findings and advise the violator to take the action necessary to correct the violation and to give appropriate assurance of future compliance.

(g) If the borrower fails to take such action and assure future compliance, the Administrator may take further appropriate action.

§ 1944.240 Exception authority.

The Administrator may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if he/she finds that application of such

requirement would adversely affect the interest of the Government or adversely affect the accomplishment of the purposes of the RRH program or result in undue hardship by applying the requirement. The Administrator may exercise the authority at the request of the State Director. The State Director will submit the request supported by data that demonstrates the adverse impact, citing the particular requirement involved and recommending proper alternative course(s) of action, and outlining how the adverse impact could be mitigated. Exception to any requirement may also be initiated by the Assistant Administrator for Housing.

§§ 1944.241–1944.249 [Reserved]

§ 1944.250 OMB control number.

The collection of information requirements in this regulation has been approved by the Office of Management and Budget and assigned OMB control number 0575–0047.

Exhibit A of Subpart E—How To Bring Rental Housing To Your Town

I Introduction
II Applying for a Loan
III Review of the Preapplication
IV Developing the Loan Docket
V Review of the Complete Docket
VI Construction
VII Open House
VIII Exhibits
A–1 Legal Services Agreement (For Nonprofit Organizations)
A–2 Survey of Existing Rental Housing
A–3 Rental Housing Survey
A–4 Rental Housing Survey Summary
A–5 Housing Allowances for Utilities and Other Public Services
A–6 Information to be Submitted with Preapplication for a Rural Rental Housing (RRH) Loan
A–7 Outline of Professional Market Study
A–8 Information to be Submitted with Application for a Rural Rental Housing (RRH) Loan

I. Introduction

A. Most areas in rural America need more adequate rental housing. Some people with modest incomes live in impoverished housing that is cold in the winter and hot in the summer because adequate housing at a reasonable rent is not available. Other households that prefer to rent have the choice of either commuting many miles to work or living in the substandard rental housing that is available in small rural communities.

B. To help reduce this rental housing shortage, the Farmers Home Administration (FmHA) finances rental housing in rural communities. Nonprofit organizations, other types of organizations and individuals may qualify for loans. Information about these loans is available at the local FmHA office.

C. This handbook will assist interested persons and groups in applying for a Rural Rental Housing (RRH) loan. It also briefly explains requirements regarding the construction and operation of the rental housing.

D. The basic guidelines in this handbook apply to all applicants; however, some requirements will vary depending on the size of the project and whether the applicant is a nonprofit organization, other type of organization or an individual.

E. The objective of the RRH loan program is to provide credit for rental housing that serves the needs of eligible very low-, low-, and moderate-income permanent tenants.

F. Successful rental housing depends on the existence of the following three important conditions:

1. There must be a need for the rental housing to be built.

2. The housing must fit the needs of prospective tenants from the standpoint of location, design and cost.

3. The applicant must provide good management.

G. An applicant for a loan must provide adequate information to FmHA to show that these basic conditions can be met.

II. Applying For a Loan

A. An individual, organization or group organizing to provide housing may apply for an RRH loan through the local FmHA District Director serving the area where the housing will to be located.

B. The applicant should read Subpart E of Part 1944 of this chapter before applying for a loan. The applicant also should discuss the proposed housing with the District Director before completing a preapplication.

C. Applying for a loan with Form AD–621, "Preapplication for Federal Assistance." Included with the preapplication form should be the supporting material or information listed in Exhibit A–6. This information will enable FmHA to determine:

1. The eligibility of the applicant;

2. The feasibility (economic, environmental and architectural) of the proposed housing; and

3. Whether the proposed housing can appropriately be financed by FmHA.

D. This information usually can be furnished by the applicant without hiring extensive professional services. It should be factual and specific based on objective investigations and realistic estimates.

III. Review of the Preapplication

A. If the proposal exceeds the District Director's approval authority, he/she will submit the docket to the FmHA State Director for consideration. If the proposal exceeds the State Director's approval authority, he/she will send the docket, including comments and recommendations of the District and State Office staffs, to the FmHA National Office in Washington, DC for review.

B. The completeness and accuracy of information submitted with the preapplication is especially important when reviews are necessary by FmHA offices remote to the proposed site and without direct knowledge of conditions and circumstances involved with the project. The description of the planned housing must be clear, complete, and concise to ensure timely reviews by FmHA.

C. When the reviews are completed, the District Director will notify the applicant, using Form AD–622, "Notice of Preapplication Review Action," of FmHA's decision.

If it appears a loan can be made, the District Director will explain the additional steps that will be required. If favorable action cannot be taken on the preapplication, the District Director will explain why and may be able to suggest changes to permit a loan to be made.

IV. Developing the Loan Docket

A. When an applicant is authorized to submit a formal application, the District Director will review the items required in Exhibit A–8. The amount of information required will vary based on the complexity and size of the proposed project. The District Director will also provide forms and guides to assist the applicant in recording required information. Some of the guides are included as exhibits in this handbook. The applicant is responsible for providing the information required.

The District Director will assemble this information and complete the docket.

B. The following information will be helpful in developing a loan docket. The first two items are applicable only to nonprofit organizations. The other items apply to any applicant. In addition, the requirements of Exhibit A–6 of this instruction must be met when developing a preapplication and the requirements of Exhbit A–8 must be met with developing an application.

1. *Getting organized if applicant is a nonprofit organization and has not adopted articles of incorporation and bylaws.*

a. *Sterring committee.* The group may choose a steering committee to act for it. An attorney will usually be required to advise the organization on incorporation and assist in developing the loan application. The steering committee should select an attorney who is interested in the proposed housing and will render the necessary services promptly for a reasonable fee.

b. *Articles of incorporation and bylaws.* FmHA has developed model articles of incorporation and bylaws for nonprofit organizations. The steering committee should arrange for the District Director to meet with the attorney. The District Director will give the attorney copies of the FmHA model articles of incorporation and bylaws and explain FmHA requirements.

c. *Attorney's fees.* Reasonable attorney's fees may be included in the FmHA loan. A written agreement between the applicant and attorney is required. See Exhibit A–1 for a sample copy of an agreement.

d. *Board of directors.* The steering committee usually selects the incorporators for the corporation. The board of directors is responsible for conducting the corporation's business, including obtaining the loan and providing overall management after the housing is completed.

2. *Obtaining broadly based membership.*

a. A nonprofit corporation applying for a loan must have and maintain a broadly based local membership, including leaders in the community, representing a variety of interests in the community. The members may be individuals or organizations but each member is limited to one vote.

b. The purpose of the broadly based membership requirement is to obtain community support, provide enough members to be able to rotate officers and members of the board of directors, protect the Government's financial interest as mortgagee and provide assurance that the housing will be a success and the purpose of the loan carried out.

c. In RRH loans to nonprofit organizations and public bodies, there is no profit incentive. The term of the loan may be for as long as 50 years. Therefore, factors such as the prospect for continuous competent management and supervision, maintenance and adequate community support of the housing project over the expected life of the loan are important.

d. A membership list showing the names and addresses of each member should be maintained by the secretary of the organization.

(1) *Number of members required.* The organization should have at least 25 members. The number of members may be decreased for projects with less than 25 units.

(2) *Contributions by members.* Nonprofit corporations may require a membership fee or ask prospective members for a contribution. This is the method often used by nonprofit corporation applicants to raise initial operating capital. However, no such fee or contribution can entitle a member or prospective member to a preference in occupany of the housing.

3. The applicant should communicate with officials of the community early in the development of the proposal to explain the benefits of the proposed housing to the community. This meeting will serve to remove the uncertainty of the impact of the housing on the community and may aid in a timely processing of the preapplication. The support of community officials is helpful in obtaining environmental clearances, possible zoning changes, favorable taxation, etc.

4. *Initial operating capital.*

a. All applicants must have enough initial operating capital to get started. When justified, FmHA may include these funds in a loan made to a nonprofit organization or public body. Initial operating capital should be sufficient to pay such costs as property and liability insurance premiums, fidelity bond premiums when the applicant is an organziation, utility hook-up charges and deposits, maintenance and other equipment, lease forms, furnishings, loan payments that may become due during construction, and other initial expenses.

b. At least 2 percent of the total development cost of the project is required for initial operation and maintenance costs. The applicant can determine the amount required by working out a detailed budget of income and expenses for the period of time until the housing is ready for occupany and rental income will be available. The actual budget may indicate that more than 2 percent is needed.

5. *Analysis of market to determine demand for rental housing.*

a. Applicants should discuss with the Distict Director the type of market analysis that will be needed. Applicants must comply with paragraph II of Exhibit A–6 when preparing market information.

b. Exhibits A–3 and A–4 are sample forms which may be modified by the applicant to assist in the assembly of the information for the market analysis.

6. *Planning to serve the market.*

a. Planning the housing to serve the market in the community involves more than obtaining a blueprint of the building. It requires a careful evaluation of conditions in the community and careful planning to assure that the result will be good rental housing designed for independent, living at a cost eligible tenants can afford. Well planned housing is:

(1) Convenient, attractive, safe, and comfortable.

(2) Easily maintained.

(3) Located where its tenants can have easy access to the goods and services they require for daily living.

(4) Planned to meet all codes, regulations, and acceptable construction practices.

(5) Priced to rent for no more than the prospective tenants can afford.

(6) Energy efficient and complies with FmHA's thermal performance standards.

b. The District Director and State Office architect can provide information that will help the applicant in planning the housing.

7. *Selecting an architect.*

a. The services of an architect are required for all housing projects which have more than five units. The cost of a registered architect/engineer may be included in the loan.

b. Before anything more than schematic drawings are prepared, the applicant and its architect, the FmHA architect/engineer and the District Director should arrange a meeting. This meeting will acquaint the applicant's architect with the purposes of the housing and FmHA's requirements. This will be helpful in eliminating misunderstandings. Among the topics that should be discussed are:

(1) Objectives of the rental housing program.

(2) Design requirements that will produce good housing at reasonable cost.

(3) States at which FmHA must review plans and specifications.

(4) Services the architect will be expected to perform.

(5) Agreement between architect and applicant.

8. *Selecting a site.*

a. The location of the housing is an important part of planning to serve the market. Tenants should have easy access to required services. A desirable residential setting within the rural community is essential.

b. Site cost is also important. The total cost of the site, including the cost of improvements and the price of the land, must be considered. Both may be included in the loan. However, loan funds made available to purchase land may not exceed the present market value of the land in its present condition as determined by an FmHA appraisal.

c. Before buying a site, the applicant should consult the architect to determine the suitability of the site for the proposed housing. The applicant must consider the site requirements detailed in paragraph III of Exhibit A–6 of this subpart. The applicant should not enter into any firm agreement to buy a site with the expectation of receiving an FmHA loan without consulting with the District Director and prior to the Agency's completion of the environmental impact review.

9. *Drawings, specifications and cost estimates.*

The size, complexity, and cost of rental housing projects can vary from a duplex located on a small building lot to a complex of buildings located on a site containing several acres. The applicant must provide drawings and specifications in accordance with paragraph IV of Exhibit A–6 of this instruction.

10. *Budgets.*

a. The initial budget should cover the period from the date the first construction expenses are incurred until the end of the applicant's first fiscal year following completion of the housing. After the final cost estimate has been made and the amount of the loan needed has been determined, a budget for a typical year should be developed.

b. This budget should be based on a typical annual operation after the project is occupied. Budgeting is an important part of the management. The applicant should spend enough time working on it to assure that the estimates are realistic. Budgets will be required each year until the FmHA loan is repaid in full. The budget serves several purposes including:

(1) Helps determine rental rates.

(2) Indicates financial soundness.

(3) Serves as a guide for paying expenses.

c. Form FmHA 1930–7, "Statement of Budget and Cash Flow," and accompanying Exhibit A–5 of this subpart are a sample budget form and utility allowance form.

11. *Loan resolution or loan agreement.* When the applicant is a corporation or an individual applying for a loan above certain amounts, a copy of the required loan resolution or loan agreement should be obtained from and discussed with the District Director before the loan docket is developed. Among other things, this document outlines how the income from the housing is to be used. These requirements should be understood at the time the budget is developed.

12. *Management plan.* A detailed management plan will be developed which will outline the basic policies and procedures to be followed and the duties of the officers and employees. The applicant must manage the project in accordance with the requirements of Subpart C to Part 1930 of this chapter.

13. *Manager and caretaker.*

a. A comprehensive management program is essential to the successful operation of the project. A carefully written plan should be developed in accordance with Exhibit B of Subpart C of Part 1930 of this chapter.

b. The use of an onsite manager should be based on the size of the project. The manager should be readily available to the tenants. The manager might be one of the tenants or a member of the board of directors of a nonprofit corporation. The manager's duties should be specified in the management plan.

c. The board of directors of a corporation is responsible for overall supervision and management of all its affairs. The board should delegate actual operating and management responsibility to committees or individuals and meet often enough to see that enterprise is being managed successfully.

14. *Occupancy policies.*

a. Applicants should review carefully the occupancy requirements with the District Director. Particular attention should be given to the following requirements:

(1) The housing must be open to all eligible tenants regardless of race, color, religion, sex, National origin, age, handicap or marital status.

(2) The incomes of tenants must be within the maximum income limits approved by FmHA.

b. Additional guidance concerning occupancy in congregate housing projects can be found in Exhibits B–10 and B–10A to Subpart C of Part 1930 of this chapter.

15. *Rules and regulations.* The rules and regulations for tenants should be developed by the applicant and a copy included in the loan docket.

16. *Lease.* The applicant should develop an application form for occupancy and a lease agreement form in accordance with the requirements of Subpart C of Part 1930 of this chapter. Copies of these forms should be included in the loan docket.

17. *Affirmative Fair Housing Marketing.* In order to promote proper planning for initial rent-up and occupancy, the District Director will meet with the applicant after loan approval, preferably at the preconstruction and/or the prerent-up conference to discuss the Affirmative Fair Housing Marketing Plan or other similar agreement approved for the project.

V. Review of The Complete Docket

A. When the applicant has developed the complete loan docket, it should furnish and discuss the information with the District Director. Form AD–625, the information and materials listed in Exhibit A–8 plus FmHA forms provided by the District Director become the loan docket.

B. If the docket is submitted to the State Office for consideration, the State Director will indicate any special requirements that need to be met before loan approval or loan closing.

C. Commercial financing should be used during the interim construction period if available at reasonable rates and terms. FmHA can make a conditional commitment to the interim lender that will loan the funds to finance the construction of the project. The commitment will be conditioned upon acceptable performance by the builder and payment of all construction bills. After the conditions have been met, the FmHA loan will be closed to pay the interim construction indebtedness. Draws on interim loan funds will be made only as needed and will require the joint approval of the applicant and the FmHA District Director.

D. In other cases FmHA can make advances of loan funds for construction, the note and mortgage will be signed by the applicant and the loan funds deposited in a joint bank account at loan closing. The loan funds are disbursed from the bank account as needed. Checks on the account must be signed by the borrower and countersigned by the FmHA District Director.

VI. Construction

The start of construction is the first physical sign that the housing will become a reality. The construction period is a most critical period of time.

A. *Starting construction.* Construction should not be started until the FmHA loan is closed or the FmHA commitment has been made to the interim lender.

B. *Competitive bidding.*

1. Competitive bidding is recommended and may be required by FmHA in some cases. If required, the State Director's letter sent after the loan is authorized will instruct the District Director to have the applicant or its architect complete the necessary bid documents.

2. The applicant and the architect should invite competent contractors to bid on the housing. If bids are within the estimates, the successful bidder will be selected and the contract for construction will be awarded. During construction, a qualified FmHA representative and the applicant and its architect will inspect the work to protect their respective interests in the project. Payment will be made from the FmHA loan funds, or interim loan funds, according to provisions in the contract.

C. *Construction without competitive bidding.* When competitive bidding is not required, the loan docket will include reliable cost estimates or a firm offer to build from a builder selected by the applicant. A contract concurred with by FmHA will be executed by the applicant and the contractor. If full architectural services are obtained by the applicant, inspection of the work will be performed by the architect's staff. The applicant and FmHA will inspect the construction to protect their respective interests in the project. Payments will be made to the contractor in accordance with the terms of the contract.

VII. Open House

Promotion of the housing availability should start at least 90 days prior to completion. The applicant may want to create interest in the housing and build up the list of prospective tenants by having a dedication ceremony. This will attract attention and remind the local residents of what the housing means to the community. This is especially recommended for housing developed by nonprofit corporations.

VIII. Exhibits

The following exhibits may be used when applicable and, if necessary, adapted to meet the specific needs of applicants.

Exhibit

A–1 Legal Services Agreement
A–2 Survey of Existing Rental Housing
A–3 Rental Housing Survey
A–4 Rental Housing Survey Summary
A–5 Housing Allowances for Utilities and Other Public Services
A–6 Information to be Submitted with Preapplication for a Rural Rental Housing (RRH) Loan
A–7 Outline of Professional Market Study
A–8 Information to be Submitted with Application for a Rural Rental Housing (RRH) Loan

Exhibit A–1—Legal Services Agreement (For Nonprofit Organizations)

(SAMPLE)

Agreement made this _____ day of _____ 19 ___ between the _____, hereinafter called the owners, and _____, hereinafter called the attorney, witnesseth:

_____,

Whereas the owners intend to form a nonprofit corporation, hereinafter called the corporation, to construct and operate a rural rental housing project in

_____

(Town)

_____

(County)

_____

(State)

and to obtain a loan from the Farmers Home Administration to finance the construction, and the attorney agrees to perform all legal services necessary to incorporate the corporation, and to perform all other customary legal services necessary to the organization, financing, construction, and initial operation of the proposed rural rental housing project, such services to include but not be restricted to the following:

1. Prepare and file necessary incorporating papers and supervise and assist in taking other necessary or incidental actions to create the corporation and authorize it to finance, construct, and operate the proposed housing project.

2. Prepare for and furnish advice and assistance to the owners, and to the board of directors and officers of the corporation, in connection with (a) notices and conduct of meetings; (b) preparation of minutes of meetings; (c) preparation of adoption of necessary resolutions in connection with the authorization, financing, construction, and initial operation of a rural rental housing project; (d) necessary construction contracts; (e) preparation of adoption of bylaws and related documents; (f) any other action necessary for organizing the corporation or financing, constructing, and initially operating the proposed housing project.

3. Review construction contract, bid-letting procedure, and surety and performance bonds.

4. Examine real estate titles and prepare, review and record deeds and any other instruments.

5. Cooperate with the architect employed by the owners or the corporation in connection with preparation of survey sheets, easements, and any other necessary title documents, construction contracts, and other instruments.

6. Render legal opinions as required by the owners or the corporation or the Farmers Home Administration, United States Department of Agriculture.

7. Owners agree to pay the attorney for professional services in accordance with this agreement, as follows:

_____

The fees to be payable in the following manner and at the following times:

The attorney states and agrees that of the above total fees, _____, represents fees for services in connection with the organization and incorporation of the corporation.

The owners and the attorney further covenant and agree that, if upon organization and incorporation, the corporation fails or refuses to adopt and ratify this agreement by appropriate resolution within _____ days, this agreement shall terminate and owners shall be liable only for payment for legal services rendered in connection with such organization and incorporation.

Signed this _____ day of _____ 19 ___.

Attorney: _____

Owners: _____

EXHIBIT A-2—SURVEY OF EXISTING RENTAL HOUSING

Name	No. of units	BR mix	Type	Year built	Rent	Vacancies	Location	Amenities
								Drapes Carpet Central cooling Dishwasher Garbage disposal TV cable

Exhibit A-3—Rental Housing Survey

(SAMPLE)

A rental housing project is being planned for (name of community.) The project would provide comfortable living at monthly rental rates of (Indicate proposed basic rent by number of bedrooms.) Your opinion on the following will help us to determine whether such a project is practical. This information does not obligate you in any way.

1. What age group are you in? 62 or over [ ] 50–61 [ ] 35–49 [ ] Under 35 [ ]

2. Are you or members of the household handicapped or impaired and in need of specially designed housing arrangements? yes [ ] no [ ]

3. Number of person(s) in your household: _____.

4. Approximate annual income from all sources including any social security pension, payments made on behalf of minor children, public assistance, etc.: $_____.

5. Do you own ( ) or rent ( ) present residence?

6. Do you live in house ( ) apartment ( ) room ( ) mobile home ( ) on a farm ( ) in town ( )?

7. Is your present housing modern ( ) not modern, but adequate ( ) inadequate ( ). If inadequate, in what respect? _____.

8. What amount of monthly rent do you pay with utilities included? $_____.

9. Would you pay 30 percent of your monthly income for modern housing for your family? yes ( ) no ( )

10. Would you be willing to move in if an apartment were available_____, 19___? yes ( ) no ( )

11. Do you have a car? No, 1, 2, 3 (circle)

Name _____

Address _____

(including city/town)

Telephone Number _____

Location of employment _____

For Elderly and Congregate Housing

12. Number of meals you would like prepared for you per day _____

13. What other services would you like to have available to you?

	Yes	No
a. Housekeeping services		
b. Personal care services		
c. Social and recreational activities services.		
d. Linen and laundry services.		
e. Health and medical related services.		
f. Beauty and barber services.		
g. Transportation or access services.		
h. Other (specify)		

14. List any hobbies or organizational membership you have.

Note to Applicant: This sample survey form is for your use in evaluating the need for new rental units in the community and its market area. You should be prepared to explain the methodology of the survey since FmHA will be spotchecking the respondents' answers. How the survey is performed can influence the outcome; therefore, it is encumbent upon you to see that the manner in which it is conducted is suitable and acceptable to FmHA. For instance, compensation being paid to someone for survey work should not be dependent upon the number of respondents who would be willing to move into the project. The survey should be based on a random sampling of persons now residing in the market area. Things to avoid are surveying from the telephone book listing or a door-to-door canvass of a certain segment of the community. We want the development of rental units to be based upon actual circumstances prevailing in the market area in order that the housing development will present a secure and economical living arrangement for the persons in need of the housing.

Exhibit A4—Rental Housing Survey Summary.

(SAMPLE)

Item	Age—Head of household			
	62 or over	50 to 61	35 to 49	Under 35
Handicapped:				
Yes				
No				
Household Size (Bedrooms Needed):				
1 or 2 persons (1 bedroom)				
3 to 4 persons (2 bedrooms)				
5 to 6 persons (3 bedrooms)				
7 to 8 persons (4 bedrooms)				
Annual Income:				
Less than $3,420				
$3,421–4,925				
$4,926–6,440				
$6,441–7,960				
$7,961–9,475				
$9,476–10,990				
$10,991–12,505				
$12,506–14,020				
$14,021–15,537				
$15,538–17,053				
Over $17,054				
Present Housing:				
House				
Apartment				
Room				
Rent				
Own				
Modern				
Not modern, but adequate				
Inadequate				
Rent:				
Less than $55				
$55–85				
$86–115				
$116–145				
$146–175				
$236–265				
$266–295				
$296–325				
$176–205				
$206–235				
Over $325				
Willing to move into housing when completed:				
Yes				
No				

Exhibit A–5—Housing Allowances For Utilities And Other Public Services

Name of Borrower

Location and Identification of Project

Part I

Utility or service	Monthly dollar allowances					
	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR
Heating:						
a. Natural Gas						
b. Bottle Gas						
c. Electric						
d. Oil						
Air Conditioning						
Cooking:						
a. Natural Gas						
b. Bottle Gas						
c. Electric						
Other electric lighting, refrigeration, etc.						
Water Heating:						
a. Natural Gas						
b. Bottle Gas						
c. Electric						
d. Oil						
Water						
Sewer						
Trash Collection						
Other (specify)						
Total allowance						
(Round to next highest dollar)						

Prepared by: _____
Borrower or Agent _____
Title _____
Signature _____
Date _____

Approved by Farmers Home Administration
Name _____
Title _____
Signature _____
Date _____

Part II

Block A

To: _____
Name of Tenant

Address of Tenant
No. of Bedrooms _____

You will be billed directly for utilities and service charges. Block B sets forth the allowances credited in your rent for the payment of utilities. You may be billed for more or less than shown in Block B depending on your use of utilities

Signature of Borrower or Agent

(Date)

Block B

Allowance for utilities and services billed directly to and paid by tenant	Per month
Heating	$
Air Conditioning	
Cooking	
Other Electric	
Water Heating	
Water	
Sewer	
Trash Collection	
Other (Specify)	

Allowance for utilities and services billed directly to and paid by tenant	Per month
Total (Round to next highest dollar)	

Instructions for Preparation and Use of Housing Allowances for Utilities and Other Public Services

I. *General.* These instructions are for completing Exhibit A–5 for the establishment and use of approved utility allowances for tenants. The objective will be to establish allowances at levels that will apply to the majority of the households assigned to the specified size unit.

II. *Determining allowances.*

A. *Existing construction.* The borrower will provide information which shows the utility bills and fees for public services which have been charged to units in the project in previous years. If possible, this historical data should cover a period of at least 24 months and should show billings to all types and sizes of units in the project. If data is not available on the specific project, data from similar projects may be substituted. Consideration should be given to making proper adjustments in the data caused by some tenants' excessive use of utilities. Current rate schedules and known rate increases will be used to estimate utility allowances. The following local sources should be contacted as appropriate:

1. Electric utility suppliers.
2. Natural gas utility suppliers
3. Water and sewer suppliers.
4. Fuel oil and bottle gas suppliers.
5. Public service commissions.
6. Real estate and property management firms.
7. State and local agencies including public housing authorities.

In cases where a project uses a single meter for more than one living unit or where a single fuel supply or heating or cooling plant is used for more than one unit, the following factors will be used to determine the pro rata share of utility costs or public service fees per living unit:

Size of unit	Factor
0-BR	0.5
1-BR	0.7
2-BR	0.9
3-BR	1.1
4-BR	1.4
5-BR	1.6

Example: An 8–plex structure containing four 1–bedroom apartments and four 2–bedroom apartments has an average annual consumption of 42,000 kilowatt-hours of electricity. Allowance per unit is calculated as follows:

Four (one-bedroom) @ .7	=2.8
Four (two-bedroom) @ .9	=3.6
Total	6.4

Total use total of factors ——x cost per kilowatt-hour (kwh)-average billing (assume $.04 per kwh)
42,000/6.4 x .04=262.50
unit factor x average billing=unit allowance
(one bedroom)/.7 x 262.50=$183.75/yr.
(two bedroom)/.9 x 262.50=$236.25/yr.

B. *New construction.* The applicant, with assistance from its architect, mechanical engineer or other heating and cooling system specialists, will provide heating and cooling load calculations for each type and size of

unit. Heating and/or cooling costs will be calculated from these load factors using current rate schedules and known rate increases. Procedures described in the American Society of Heating, Refrigeration and Air Conditioning Engineers "Handbook of Fundamentals," the National Association of Homebuilders "Insulation Manual Home, Apartments," or other recognized authority may be used.

General appliance and lighting loads and fees for public services should be estimated using data from the local utility companies and from other sources listed in paragraph II A above.

C. *Type of allowance.*

1. Separate heating and cooling allowances will be estimated for the various types of multiple family housing financed by FmHA in the project. For example, separate allowances may be needed for duplexes, row or townhouses, or for garden and low and medium rise apartments. In addition to establishing different heating and cooling allowances for various types of structures, attention should be given to different allowances for water depending on whether the tenants will have responsibility for lawn care.

2. Allowances for air-conditioning will be established only for projects in which the owner furnishes a central air-conditioning system or other type unit as a part of the permanent equipment.

3. The cost of gas and electricity varies according to amounts consumed as shown on the appropriate rate schedules of the supplier. It is not possible to compute exactly the cost of electricity for any given function without knowing the total electrical usage for a unit. However, because neither the borrower nor the tenants know beforehand what the combination of utilities for any unit rented will be, it will be necessary to approximate the allowances for each function (e.g., heating, cooking, etc.) as follows: For electricity, the rates used for lighting, refrigeration and appliances should be from the top of the rate schedule or the higher unit costs. Allowances for electric cooling, water heating and space heating should be computed from the middle or lower steps in the rate schedules. Similarly, allowances for gas used for water heating and cooking should be computed using rates from the top of the rate schedule and for heating from the lower steps.

III. *Preparation by borrower or applicant.*

A. *Applicable projects.* Except for projects operating on a profit basis, Exhibit A–5 will be completed in an original and three copies in all instances where the tenants pay utilities or authorized services directly. When the borrower pays all utilities, Part I of Exhibit A–5 may also be required as part of the budget submitted for any new project if the loan approval official determines it is needed to properly evaluate projected utility costs. This form will establish the allowances for all size units in the project. The allowances will be adequate for all utilities and any authorized services which are or will be payable directly by the tenants, except telephone and cable TV. The forms will be signed by the borrower. The original and two copies of the form will be submitted to FmHA. Backup data and necessary documentation should be included with the submission.

B. *Submission of supporting data to FmHA.* The applicant will submit to FmHA adequate data to justify the utility allowances for the project. The data will include the following:

1. Completed Exhibit A–5.

2. List of local sources contacted for information and copies of any data provided by such sources.

3. Any data on allowances already established for the area.

4. Complete narrative statement and computations on method used in arriving at the allowances.

IV. *Actions by FmHA.* If FmHA finds the allowances acceptable, the approval portion of Part I will be completed. The District Director will keep a copy for the District Office file and return the original to the borrower. If the proposed utility allowance is unacceptable, the borrower will be requested to revise the data and resubmit it for further consideration.

V. *Subsequent action by borrower.* After approval by FmHA, the borrower will complete Part II of Exhibit A–5 and provide copies for each tenant paying utilities directly by attaching it to the lease entered into by the borrower and tenant. The form will provide the household with the amount of allowance for each utility and service which is to be paid by the tenant. If all utilities and services are paid by the borrower, Exhibit A–5 need not be attached to the lease.

Exhibit A–6—Information To Be Submitted With Preapplication for a Rural Rental Housing (RRH) Loan

The following information is to be submitted with Form AD–621, "Preapplication For Federal Assistance:"

I. *Eligibility.*

A. Financial Statements—Each applicant must submit a current, signed and dated financial statement. The financial statement must reflect sufficient financial capacity to meet the applicant's equity capital and initial operating capital requirements. Applicants may contribute cash, free and clear title to the building site or a combination of both as an equity contribution.

(1) For a corporation (other than a nonprofit corporation) or a trust, financial statements will be required from each member, stockholder or beneficiary who holds an interest in the organization in excess of 10 percent.

(2) For a partnership, financial statements will be required from each general partner who holds an interest in the organization.

(3) For limited partners in a limited partnership who will have 10 percent or more ownership, a certificate of net worth will be required.

(4) For applicants that are not legally organized at the time of filing the preapplication, financial statements will be required from all of the proposed parties in proportion to the proposed ownership interest of each part. However, the applicant must be legally organized prior to loan approval and must submit financial statements.

(5) For cases in which financial statements are required from an individual, the financial statements must also include the financial interest and signature of the spouse.

(6) When the applicant and/or general partner(s) have multiple applications pending and/or when the State Director is uncertain of the applicant's ability to provide the necessary 5 percent borrower contribution, 2 percent initial capital contribution and/or other assets needed for a sound loan, the State Director may request the applicant to submit additional financial information relative to its financial position. This information may be obtained from 6- to 12-month projected pro forma statements with supporting schedules.

(7) All financial statements or net worth certifications submitted must contain the following statement immediately preceding the signature line:

(A) In new projects in which the loan has not been closed:

I/we certify the above is a true and accurate reflection of my/our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan preapplication or application of which this statement is a part.

(B) For projects in which the loan has been closed and the applicant has been formed:

I/we certify the above is a true and accurate reflection of my/our financial condition as of the date stated herein. This statement is given for the purpose of enabling the United States of America to make a determination of continued eligibility of the borrower organization for a loan as requested in the application of which this statement is a part.

B. Evidence Concerning the Test for Other Credit—Applicants other than States or local public agencies must show that other credit is not available at rates and terms that will enable the units to be rented to eligible tenants at rates within their payment ability. The applicant should provide letters from local real estate lenders stating the amount of loan funds they would be willing to extend and the rates and terms at which the loans would be available.

C. Statement of applicant's experience in operating rental housing and related business, including a statement on the proposed method of operation and management.

D. For an Organization Applicant—A copy of, or an accurate citation to, the specific provisions of State law under which the applicant is, or is to be organized; a certified copy of the applicant's actual, or a copy of the applicant's proposed charter, articles of incorporation, bylaws, partnership agreement, certification of limited partnership, or other basic authorizing documents; the names and addresses of the applicant's members, directors and officers; and, if a member of a subsidiary of another organization, its name, address, and principal business, if available.

E. FmHA requires that applicants disclose identities of interests that will exist related to the development of the proposed housing. A

written, dated, and signed statement from the applicant stating the following:

(I) or (we) understand and agree that the Farmers Home Administration (FmHA) will consider an identity of interest to exist between the loan applicant as the party of the first part and general contractors, architects, engineers, attorneys, interim lenders, subcontractors, material suppliers, or equipment lessors as parties of the second part under any of the following conditions: (1) When there is any financial interest of the party of the first part in the party of the second part; (2) when one or more of the officers, directors, stockholders or partners of the party of the first part is also an officer, director, stockholder or partner of the party of the second part; (3) when any officer, director, stockholder or partner of the party of the first part has any financial interest whatsoever in the party of the second part; (4) when the party of the second part advances any funds to the party of the first part other than an interim lender advancing funds to enable the applicant to pay for construction and other authorized and legally eligible expenses during the construction period; (5) when the party of the second part provides and pays on behalf of the party of the first part the cost of any legal services, architectural services, engineering services or interim financing other than those of a survey, general superintendent or engineer employed by a general contractor in connection with obligations under the construction contract; (6) when the party of the second part takes stock or any interest in the party of the first part as part of the consideration to be paid them; and (7) when there exists or comes into being any side deals, agreements, contracts, or undertakings entered into thereby altering, amending or canceling any of the required closing documents or approval conditions as approved by FmHA. (I) or (we) certify that there is not now, nor will there be an identity of interest between or among the applicant, contractor, architect, engineer, attorney, interim lender, subcontractors, material suppliers, equipment lessors or any of their members, directors, officers, stockholders, partners or beneficiaries without prior written identification to FmHA and written consent to such identity of interest by FmHA. This statement is given for the purpose of inducing the United States of America to make a loan as requested in the loan preapplication or application of which this statement is a part.

F. The social security or tax identification number will be required in all cases. The loan will be denied for refusal to furnish the required social security or tax identification number.

(1) In the case of an individual, the social security number of the applicant must be provided. The spouse's social security number must also be provided when they have joint responsibility for the loan.

(2) In the case of a partnership, the tax identification number of the partnership must be provided if available and also the social security numbers of all the general partners and their spouses.

(3) In the case of a limited partnership, the tax identification number of the limited partnership is required. The social security number of all the general partners and their spouses should be secured if possible.

(4) In the case of a company, corporation or nonprofit organization, the tax identification number of the organization is required. The social security number of the officers should be secured if possible.

(5) If an organization does not have a tax identification number, the social security number of one of the officers must be used.

G. All known principals and affiliates are required to submit a properly completed Form HUD 2530/FmHA 1944–37, "Previous Participation Certification." Architects and attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals. The form will be completed and processed according to the instructions attached to the form.

II. *Need and demand.*

A. Economic justification and project size should be based on the housing need and demand from eligible prospective tenants who are permanent residents of the community and its surrounding trade area. Since the intent of the program is to provide adequate housing for the eligible permanent residents of the community, temporary residents of a community (such as college students in a college town, military personnel stationed at a military installation within the trade area, or others not claiming their current residence as their legal domicile) should be discounted in determining need and project size.

B. For projects of 20 units or more, a detailed study based upon data obtained from census reports, state or county data centers, individual employers, industrial directories or chambers of commerce is required. The study should include:

(1) A complete description of the proposed site, including at least the location with respect to city boundary lines and residential developments and the location of services and their distances from the site.

(2) Major employment data to portray the names of major employers within the community and/or market area, the product or service of each employer, the number of employees at each employer, the location of each employer within the community and/or market area, and the year the employer was established at the location. If certain income data cannot be obtained from individual employers, salary information for the community can be provided by the state employment commission.

(3) Population by year, number, total increase/decrease, percentage, annual increase/decrease and percentage.

(4) Population characteristics by age.

(5) The household data by number, year and number of persons per household.

(6) A breakdown of households by owners and renters.

(7) Households by income group.

(8) Building permits issued by year by single unit dwelling and multiple unit dwelling. In nonreporting jurisdictions, this information may have to be substituted with number of requests for electric service connections, number of water/sewer hookups, etc., obtained from local suppliers.

(9) Housing stock as defined by total number of units, one unit buildings, two or more unit buildings, mobile homes and number lacking some or all plumbing facilities.

(10) A survey of existing rental housing by name, number of units, bedroom mix, family or elderly type, year built, rent, vacancies, location and amenities.

(11) A projection of housing demand based on household growth, units constructed since last census, number of owned and rented units, number of replacements and the number of persons in the eligible income range.

C. Exhibit A–7 is a guide to be used in preparing professional market studies which provides more specifics as to study content. The qualifications of the person preparing the market study should include some housing or demographic experience.

D. A table of contents, the analyst's statement of qualifications, and certification of accuracy of study should be placed at the beginning of the study. The context of the study must be in clear, understandable language—not written to confuse or to camouflage. All mathematical calculations must be expressed in actual numbers and may also be accompanied by percentages. Each table and/or section should identify the *source* of the data. A brief statement of the methodology used in the study should be included in the foreward and in other sections where necessary for clarity.

E. The market analyst must affirm that he/she will receive no fees which are contingent upon approval of the project by FmHA, before or after the fact, and that he/she will have no interest in the housing project. A study prepared by an analyst with an identity of interest with the developer will need to fully disclose the nature of the identity.

F. For projects of less than 20 units, the need for the housing may be established by obtaining signed expressions of interest from 50 percent more eligible prospective tenants than the number of proposed units. Exhibits A–3 and A–4 or similar forms may be used for this analysis. Statements evidencing a continued need for the units must be included in the analysis of market. These statements should be based on historical population growth taken from census reports or a current housing evaluation by the county. If this type of analysis does not adequately support the need for housing in a questionable market area, FmHA will request that a full market study be prepared. The applicant will provide a written, signed certification that the survey was performed in a manner acceptable to FmHA and that the results are a true portrayal of the survey.

G. In the case of a proposal involving congregate housing with central dining area or housing involving a group living arrangement, a narrative statement from local, State and/or Federal Government agencies supporting the current and long-range need for the facilities in the community and its trade area is required.

H. A schedule of proposed rental rates and, in the case of a congregate housing proposal, a separate schedule listing the proposed cost of any nonshelter service to be provided

should be included with the market information.

III. *Site.*

A. Size of tract and a plot map identifying its boundaries.

B. A map showing the location and other supporting information on the neighborhood and existing facilities, such as distance to shopping areas, churches, schools, available transportation, drainage, santitation facilities, water supply and access to essential services such as doctors, dentists, pharmacies and hospitals. The map should also show significant features such as main highways, railroads, rivers and lakes. The use of property surrounding the site should also be indicated.

C. The applicant should provide evidence of having control of the proposed site either by ownership or by executing an option to buy.

IV. General description of the housing planned. A brief narrative description of the housing planned should include the following items:

A. The type of project and structures proposed, such as garden apartments for elderly and handicapped persons; townhouses for low- and moderate-income persons; or congregate housing for senior citizens and handicapped persons.

B. The size of each type of rental unit measured in square feet of living area.

C. The size and type of other facilities to be included in the project, such as laundry rooms, storage spaces, etc.

D. The total number of units and the number of each type of unit proposed.

E. The type of construction proposed and the method of construction, i.e., owner/builder, negotiated bid or public bid.

F. The estimated total development cost, the cost per unit and the estimated loan amount.

G. Type of utilities such as water, sewer, gas and electricity and whether each is publicly, community or individually owned.

H. The comments and recommendations of any professional consultants regarding on- or off-site conditions that could affect the proposed project should be submitted, if available. Any comments addressing an adverse condition should include recommended corrective actions. Any special regulation waivers or variances that may be necessary should also be identified.

I. Schematic design drawings should be included with the narrative description and contain, as a minimum:

(1) Site plan, including significant ground contour lines.

(2) Floor plans of each living unit type and other type spaces.

(3) Building exterior elevations.

(4) Typical building exterior wall section.

J. A plot plan showing the relationship of the proposed structures, the property lines, streets, utility lines, alleys and adjacent structures and their uses. It should also show proposed off-street parking for the tenants and their visitors. Other facilities, such as private and public walks, private drives and recreation areas on and off the property, laundry drying areas, and garbage and refuse holding areas which are sufficient for the period between collections in the neighborhood should be shown.

V. The applicant must submit a signed statement agreeing to pay cost overruns from its own resources.

VI. *Form FmHA 1940–20, "Request for Environmental Information".*

VII. *Intergovernmental consultation.* Comments must be submitted in accordance with 7 CFR, Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities." See FmHA Instruction 1940–J (available in any FmHA office).

Exhibit A–7.—Outline of Professional Market Study

This outline is to be used by analysts as the basis for preparing market studies for the 515 housing program. It generally contains the type of depth of information which FmHA requires for evaluating the feasibility of prospective housing developments. In addition to these specifications, the analyst will be responsible for including data pertinent to the elderly population if the proposed design is for elderly housing. The guidelines provide for the demonstration of historical trends and allows the analyst to project into the two years beyond the last actual year of record. Additional guidance is offered in individual segments of the outline.

If you have not previously participated in this program, you will have to obtain approval from FmHA before your study is accepted. To do this, a sample of a prior market analysis which you have prepared will need to be submitted to the local FmHA office for review. If this is to be your first market study, you will need to provide a statement of your experience and why you think you are qualified to prepare such a study.

I. *Market area—General.*

The market area will be the community where the project will be located and only those outlying rural areas which will be impacted by the project (excluding all other established communities). Any deviation from this definition must be coordinated with the district office. The market area must be realistic. The criteria for selection should be described by the analyst. A map showing the market area will be required. The following is an example of a market area description:

A. Based on an analysis of population and housing development patterns, major employers and commuting patterns, the effective market area for the subject proposal is defined to include all of (Name), 35 percent of (Name) and 25 percent of (Name) census divisions. This area is shown on Map 2 following Table 4 (page 11) in Section II of this report. In 1970, this geographic market area contained an estimated 6,350 persons (6.1 percent of the county total of 103,829 persons). During the 1970's decade, the overall market area experienced growth of 1,253 persons (representing 13.5 percent of total gains in the county). In 1980, the (Name) market area population of 7,603 represented 6.7 percent of the county population of 113,086. (See Table 4 and Map 2 in Section II for details.)

B. The effective market area for the subject proposal includes the town of (Name) and a portion of the unincorporated areas to the east and south. The (Name) River forms a natural barrier restricting development to the west. Housing development and population growth have occurred along major transportation corridors, particularly Interstate 81 and U.S. 11 between (Name) and (Name). Secondary growth has occurred along State Roads 63 and 68 to the northwest and southeast of (Name). The Interstate Industrial Park, with 16 employers providing 999 jobs, is centrally located within the market area.

II. *Site.*

This section will contain a full description of the site, its position in the community and location with respect to residential support services.

A. The proposed site is located in the eastern section of (Town) on (Major Thoroughfare). The area surrounding the site is predominantly comprised of modest single family dwellings.

B. The site is approximately .3 mile east of the heart of town which contains a grocery store, drugstore, restaurants, banking facilities, the post office and town hall. Other shopping is available .2 mile south at (Town) Plaza.

C. The medical clinic, which provides services of an osteopath, X-ray technician, a physician's assistant and a nurse, is approximately .8 mile north of this site. This clinic is open daily and also provides 24-hour emergency service. The nearest hospitals are (Large City) and (City).

D. All public services are available at the site.

III. *Demographic characteristics.*

A. *Economic profile.*

1. *Labor force and employment trends* presents trends between 1970 and 1980, provides current year estimates and projected changes at the county level.

CIVILIAN LABOR FORCE AND EMPLOYMENT TRENDS AND FORECASTS, COUNTY, 1970–1987

	1970	1980	198–[1]	19—
Civilian Labor Force: [2]				
Unemployment				
Rate of Unemployment				
Employment				

[1] Preliminary—based on monthly data through ———.
[2] Data based on place of residents.
Source:

CHANGE IN TOTAL EMPLOYMENT

Number		Percent	
	Total	Annual	Total	Annual
1970–1980				
1980–198				
198 –19 (2-year projection)				

2. *Employment data.* In order to determine how employment affects the market area, it will be necessary to show the number of employed persons between 1980 and the current year, the increase and/or decrease and the percentage of unemployed at the county level. The employment figures can be obtained from the State Employment Commission.

Example:

Year	County		
	Number	Change	Unemployment (percent)
1980			
1981			
1982			
1983			
1984			
1985			
1986			
1987 (or through current year)			

Source:

3. *Major employers.* This section will contain information pertinent to an analysis of the economic stability of the town. The major employers within the town and market area, the product or service offered by each employer, number of employees at each employer, salary range of each employer, location of employer, and year each employer was established are types of data FmHA will need to evaluate. It is also helpful to know if the larger employers intend to increase or decrease number of employees in the immediate future or if there have been any significant recent changes in number of employees.

4. It should not be difficult to obtain some of the above data from the employers themselves. However, some employers may be reluctant to divulge certain information regarding their businesses, such as the salary range of their employees. In those cases, the analyst will have to obtain averages, by job type, from the State Employment Commission using job classifications from the Standard Industrial Classification Manual. The data should be shown as follows:

Example:

Employer	Product/Service	Employees	Salary		Location	Year established
			Weekly	Yearly		
Washington Aircraft	Crop dusting	5	$200	$10,000	Town	1957

Source:

B. *Demographic Profile.*

1. *Population.* The analyst will need to show population changes between 1970 and 1980, the current year estimate and projected change. The annual changes will need to be shown also. We also want percentages along with the figures, as follows:

	Year [1]	Number	Total change	Percent	Annual change	Percent
Town:	1970					
	1980					
	198 (current estimate)					
Projected:	19 (2 years)					
County:	1970					
	1980					
	198 (current estimate)					
Projected:	19 (2 years)					

[1] April 1 of each year.

2. *Age Characteristics.*

Age	Town, 1970–80 [1]			County, 1970–80		
	1970	1980	Change	1970	1980	Change
Under 18						
18–29						
30–61						
62+						

[1] Available for places of 2,500 or more only.

3. *Households.* A breakdown by town and county for last 2 census years, a current year estimate and a projection to the year the housing would be built (24 months) will have to be illustrated so that household formations can be tracked. This data will tell us what portion of a housing demand is being created by an increase in numbers of new households.

Year [1]	Population	In group quarters	Households	Persons per household
Town:				
1970				
1980				
198				
Projected: 19 (2 years)				
County:				
1970				
1980				
198				
Projected: 19 (2 years)				

[1] April 1 of each year.

4. *Households by Tenure.* This section is one of the more important aspects of the market analysis. This information will enable us to more closely pinpoint the number of households which would comprise the target group of our evaluation.

Year	Total households	Owner	Percent	Renter	Percent
Town:					
1970					
1980					
198					
Estimate: 198					
Projected: 19 (2 years)					
County:					
1970					
1980					
Estimate: 198					
Projected: 19 (2 years)					

5. *Households by Income Group.* This section is also vital to the evaluation of the market because of the low income ranges which exist in the rural areas and the lack of deep subsidy. For this reason, close attention must be paid to the number of persons whose incomes will allow them to pay the rent plus utilities and still remain within the 30 percent criterion. In some cases, persons with incomes in the upper range of the eligible income group have displayed a lack of interest since they would be required to pay the full market rent. Also persons with lower incomes will move into projects even though they will pay more than 30 percent of their incomes. Irrespective of these considerations, the study will need to show the entire scale of incomes from lowest to highest. The number of renters who fall within the feasibility range can then be estimated. Income data should be shown for total and renter households, updated to the current year.

a. Rent for a 1-bedroom apartment is $250 with a $30 utility allowance (which can include electric or gas heat, air conditioning, lighting, cooking, water heating and trash collection, water, sewer). The amount of income needed to pay the total bill and stay within 30 percent of income would be:

Example:

$280 divided by .30×12=$11,088 income.

Household Income Profile, ——— County, 1984 [1]

[1] Income information may also be obtained from Sales and Marketing Management Magazine and used in conjunction with the HUD data.

Household income groups	All households		Renter households	
	Number	Percent	Number	Percent
Less than $10,000				
$10,000 to $14,999				
$15,000 to $19,999				
$20,000 to $24,999				
$25,000 to				
Total				
Median				

Source:

b. HUD has furnished its information on owner/renter by income group by number of persons in the household. This type of information will further enhance evaluation of the affordability issue by allowing the examination of the number of renters in the affordability range. For the present time, the analyst should make a request for this data through the District Office.

C. *Housing supply profile.*

1. *Building permits issued.* The Housing Units Authorized by Building Permits and Public Contracts (C–40 Construction Report), furnished by the Bureau of the Census, provides a list of permits issued in all reporting jurisdictions. This publication is printed monthly and annually.

Example:

Year	Town			County		
	Single family	Multi-Family	Total	Single family	Multi-Family	Total
1980						
1981						
1982						
1983						
Through current year						

2. *Housing stock.* The study must include the number of units within the county and town (where available), both single family type and multi-family, along with the number of substandard units and the quantity of mobile homes, based on the most recent census data. Occasionally, a situation will exist within a community where a number of detached single family homes are standing vacant. How this condition may affect the rental market must be evaluated and discussed.

Example:

Inventory change profile	Town	County
1970 Stock		
1980 Stock		
Change:		
Number:		
Total		
Annual		
Percent		

Plumbing Facilities [1]
Complete—Exclusive Use
Lacking Complete Facilities
Number of Units [1]
1
2–9
10 or more
Mobile Home

3. *Existing rental housing.* The analyst must determine where the proposed project will fit into the present housing stock. The rent levels, number of bedrooms, type of project, age, vacancy rate, location and amenities available will have to be compared. This will enable FmHA to judge how many of the existing units: (a) would be comparable with the proposed project in overall appeal; (b) are less than desirable because of the age factor or upkeep; (c) are inconveniently located; (d) do not provide the appropriate bedroom mix for the community need, etc.

4. Additional narrative which describes the rental stock and provides tenant characteristics may be included. The survey should include both subsidized and nonsubsidized rentals and have photographs as backup. The survey should include the description in Exhibit A–2 of this subpart. In conjunction with the survey, the analyst is expected to discuss the reasons for extended vacancies, either in individual developments or in the community in general.

IV. *Housing Demand Forecasts.*

A. The analyst must give a projection of the housing needs for a specified forecast period. The information may be presented in chart form in other formats with other types of information but should include the following as a minimum:

[1] Data available for incorporated places of 2,500 or more only.

Sources of demand	Town		County	
	Owner	Renter	Owner	Renter
New households				
Plus replacements				
Plus vacancy (of 5%)				
Total demand				

B. The demand forecast should be adjusted for rental units already provided (if any) within the market area. The residual demand represents the market from which the proposed project will attract tenants.

Exhibit A–8—Information To Be Submitted With Application for a Rural Rental Housing (RRH) Loan

The following information is to be submitted with Form AD–625, "Application for Federal Assistance (Short Form):"

1. Drawings and specifications, including any cost containment considerations and special design features for elderly or handicapped persons.

2. A detailed cost breakdown of the project for such items as land and rights-of-way, building construction, equipment, utility connections, architectural/engineering and legal fees, and on- and off-site improvements. The cost breakdown also should show separately the items not included in the loan, such as furnishings and equipment. This trade-item cost breakdown should be updated just prior to loan approval.

3. Information on the method of construction, the proposed contractor if a construction contract is to be negotiated, and the architectural, engineering and legal services included in the proposal.

4. Satisfactory evidence of review and approval of the proposed housing by applicable State and local officials whose approval is required by State or local laws, ordinances or regulations. This could be an indication of approval to proceed with the development of the project rather than final approval of plans and specifications.

5. If more than 12 months have transpired since the applicant submitted the market analysis, the State Director may require an updated one if he/she determines it necessary.

6. For all projects containing over four units, the applicant must submit an Affirmative Fair Housing Marketing Plan for approval in accordance with § 1901.203 of Subpart E to Part 1901 of this chapter. The plan must be prepared in a complete, meaningful, responsive and detailed manner.

7. If more than 90 days have transpired since the applicant submitted the dated financial statement, the State Director may require a new one if he/she determines it necessary.

8. Detailed operating budgets showing a schedule of proposed rental rates for the first year's operation and a typical year's operation. The first year's budget should show that the applicant has sufficient operating capital on hand or sufficient planned income to pay all operating costs and meet scheduled payments on debts during the planning and construction period prior to occupancy. The typical year's budget should show there will be ample income to pay essential operating costs, meet required debt payments and permit accumulation of required reserves. Form FmHA 1930–7, "Statement of Budget and Cash Flow," and Exhibit A–5 of this subpart (or similar forms) may be used for this purpose. The operating budgets should be updated if necessary just prior to loan approval.

a. The initial budgets should include an allowance of 10 percent for vacancies, nonpayment of rent and contingency expenses. The allowance in subsequent year budgets may be adjusted to be consistent with the actual past experience in vacancy, nonpayment of rent and contingency needed for the project.

b. The budgets should provide for accumulating a reserve at the rate of 1 percent per annum of the amount of the loan until a minimum reserve equal to 10 percent of the loan is reached. Budgets should not include an additional item for depreciation since the reserve account is to provide funds for this purpose.

c. All applicable taxes, including Federal and State income taxes, should be included in the budgets and separately identified. If the applicant considers itself tax-exempt, evidence of exemption must be included in the loan docket before the loan is closed. An eligible nonprofit organization should ordinarily be able to qualify for Federal income tax exemption under section 501(c)(4) of the Internal Revenue Code.

9. A description and justification of any related facilities to be financed wholly or in part with loan funds.

10. A statement in narrative form outlining the proposed manner of management of the housing, such as whether by owner or by hired management firm or agent. Experience and other factors pertaining to the qualifications of the manager should be set forth and will be taken into consideration. If management will be performed by a hired management firm or agent, a copy of the proposed management agreement should be submitted. It must contain the clause stating that it is not in full force and effect until approved by FmHA.

11. A management plan which sets forth clear and concise statements of policy concerning management and operation of the project in accordance with the requirements of paragraph V of Exhibit B of Subpart C to Part 1930 of this chapter. Copies of the proposed application for occupancy, sample waiting lists, lease or rental agreement, and rules and regulations governing administration, occupancy and pet policies should be included. The management plan must be submitted in writing and the applicant must certify that it is in compliance with the requirements of Subpart C to Part 1930 of this chapter.

12. A schedule of any separate charges for the use of any related facilities and, in the case of congregate housing, a schedule of any separate charges for nonshelter services (such as meals, personal care and housekeeping). These schedules should be supported by appropriate operating budgets for services to be provided.

13. A satisfactory survey of the land to be given as security prepared by a licensed surveyor will be included in the loan docket. If necessary, a new survey will be obtained.

Exhibit B of Subpart E—Guide Letter For Use in Informing Interim Lender of FmHA's Commitment

(Name and Address of Private Lender)

_____

_____

Dear Mr./Ms.: _____

(For Organizations)

Reference is made to a request from the
(Smith Housing Assoc.)

through
(John Smith),

its President, for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

(For Individuals)

Reference is made to a request for
(John Jones)

for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

This letter is to confirm certain understandings on behalf of the Farmers Home Administration (FmHA).

Final drawings, specifications and all other contract documents have been prepared and approved, and the applicant is prepared to start construction. The applicant and FmHA have determined that the conditions of loan closing can be met. Funds have been obligated for the project.

FmHA has required the applicant to deposit $_____ with your firm to be used before any interim loan funds. The applicant has proposed and FmHA has agreed that you may first advance any applicant funds on deposit, and then advance the proceeds of the interim loan in accordance with the terms and conditions stated in your attached letter to pay for construction and other authorized and legally eligible expenses incurred by the applicant. It is understood, however, that advances of both the applicant's funds and the interim loan funds will be made only upon presentation of proper statements and partial payment estimates proposed by the builder and approved for payment by the consulting architect, applicant and FmHA District Director.

We have scheduled the FmHA loan to be closed when construction to be financed with loan funds is substantially complete in accordance with the FmHA approved (contract documents), drawings and specifications, (except for minor punch list items), and the applicant provides evidence and a signed certification indicating that there are no unpaid obligations outstanding in connection with the project. At that time, funds not exceeding the FmHA loan amount will be available to pay off the amount of loan advances your lending institution has made for authorized approved purposes, including accrued interest to the date of closing.

FmHA cannot provide you with an unconditional letter of commitment guaranteeing FmHA loan closing. Factors such as noncompletion, default, unacceptable workmanship and marked deviation from approved drawings and specifications could prevent the FmHA loan from being closed.

These problems can be minimized by making a thorough review of the [contract documents] [1] and drawings and specifications, evaluating the qualifications and past performance of the builder, and obtaining an adequate corporate surety bond

guaranteeing both payment and performance. If the builder is unable to provide a surety bond, we suggest that your lending institution consider making advances for partial payments to the builder [in accordance with the provisions of the construction contract] [1] based upon no less than 60 percent and no more than 90 percent of the value of acceptable work in place, less the aggregate of previous payments.

The following are additional safeguards to help assure FmHA loan closing:

1. We invite you or your representatives to accompany FmHA personnel during construction inspections so that at least three or four joint inspections at critical points during construction, including the final inspection, can be made to help assure that construction is proceeding in accordance with the FmHA approved drawings and specifications.

2. FmHA will maintain its commitment in the amount of the obligated loan funds for a reasonable period of time after the expiration of any specified completion dates provided work on the project is progressing satisfactorily and any identified problems have been resolved.

3. FmHA will not arbitrarily abandon your lending institution in the event of default. If the contractor defaults, FmHA will attempt to provide financial assistance to the applicant in accordance with our administrative procedures and lending requirements if a new contractor can complete the project for a total cost within the security value of the project. If this is not possible or if the FmHA loan applicant becomes unable or unwilling to continue with the project, FmHA will attempt to provide financial assistance to any eligible applicant (subject to the availability of funds, our administrative procedures, and our lending requirements) to purchase the completed project from your lending institution.

4. FmHA is aware that circumstances such as subsurface ground conditions and change orders necessitated by required changes in the work to be performed may cause cost increases after FmHA loan approval and the obligation of FmHA loan funds. When justified, FmHA may make subsequent loans when necessary to help cover the eligible costs, provided additional loan funds are available, the change orders were approved by FmHA, the increased costs are legitimate and are for authorized loan purposes, and the total cost of the project is within its security value.

Your assistance to the applicant is appreciated.

Sincerely,

_____

State Director

Exhibit C of Subpart E—Articles of Incorporation

(Not for Profit)

(SAMPLE)

We, the undersigned, incorporators, hereby associate ourselves together to form and establish a corporation not for profit under the laws of the State of _____.

First: The name of the corporation is _____.

Second: The location of its principal place of business in this State is _____, _____, _____ County.

Third: The location of its registered office in the State is _____, _____, _____ County.

Fourth: The name and address of its resident agent in this State is _____, _____, _____ County, _____.

Fifth: This corporation is organized not for profit under

— and the objects and purposes to be transacted and carried on are to promote the general social welfare of the community and for the purpose: _____

To acquire, construct, provide, and operate rental housing and related facilities suited to the special needs and living requirements of eligible occupants as determined by Farmers Home Administration regulations, without regard to age, race, color, religion, sex, marital status, physical or mental handicap (must possess capacity to enter into a legal contract) or national origin;

To acquire, improve, and operate any real or personal property or interest or right herein or appurtenant thereto;

To sell, convey, assign, mortgage, lease any real and personal property;

To borrow money and to execute such evidence of indebtedness and such contracts, agreements, and instruments as may be necessary, and to execute and deliver any mortgage, deed of trust, assignment of income, or other security instrument in connection therewith; and to do all things necessary and appropriate for carrying out and exercising the foregoing purposes and powers.

Sixth: The number of directors shall be prescribed in the bylaws, but shall not be less than five.

Seventh: The corporation formed hereby shall have no capital stock. It shall be composed of members rather than shareholders. The conditions and regulations of membership and the rights or other privileges of the classes of members shall be determined and fixed by the bylaws.

Eighth: The corporation is not organized for pecuniary profit and shall have no power to declare dividends. No part of its net earnings shall inure to the benefit of any member, director, or individual. The balance, if any, of all money received by the corporation from its operations, after payment in full of all operating expenses, debts, and obligations of the corporation of whatsoever kind and nature as they become due shall be used to make advance payments on a _____ owed by the corporation, to lower the lease-rental charge to occupants of the housing, to provide additional housing and related facilities, or for some related purpose.

Ninth: The name and place of residence (post office address) of each of the incorporators and initial directors until the first annual meeting:

Incorporators

_____

_____

Directors

_____

_____

Tenth: In the event of dissolution of this corporation, or in the event it shall cease to carry out the objectives and purposes herein set forth, all business, property, and assets of the corporation shall go and be distributed to one or more such nonprofit corporations or municipal corporations as may be selected by the board of directors of this corporation, to be used for and devoted to the purpose of carrying on a nonprofit housing project for such rural residents or other purposes to promote the general social welfare of the community. In no event shall any of the assets or property, in the event of dissolution thereof, go or be distributed to members, either for the reimbursement of any sum subscribed, donated, or contributed by such members or for any other purposes, provided that nothing herein shall prohibit the corporation from paying its just debts.

Eleventh: The duration of the existence of this corporation shall be perpetual.[1]

In Testimony Whereof, We have hereunto subscribed our names on _____, 19____

_____

_____

_____

(Insert acknowledgment or other form if required by State law.)

Exhibit D of Subpart E—Bylaws

(Sample)

Bylaws of

A Nonprofit Corporation

Article I

Office

Section 1.01. *Principal Office.*

The principal office of the corporation in the State of _____, shall be located at _____, County of _____ Section 1.02. Registered Office and Agent. The corporation shall have and continuously maintain in the State of _____ a registered office and a registered agent whose office is identical with such registered office.

Article II

Members

Section 2.01. *Eligibility for membership.*

The corporation shall have one class of members. Members may be individuals or organizations. Any legally competent person of good reputation who resides in the town of _____ or in the surrounding trade area, applies for membership, and pays the required membership fee shall be eligible.

Section 2.02. *Approval of Applications.*

All applications for membership shall be approved at: (1) Any special or regular meeting of the board of directors, when a quorum is present, by a majority vote of the board members or (2) by a majority vote of

[1] These words may be omitted for projects constructed by the owner-builder method of construction with a construction contract.

[1] Duration should be perpetual, or long enough to cover the period of the loan plus 5 years, or for the longest period permitted by the State law.

the existing membership present at any annual or special meeting held in accordance with Article III herein.

Section 2.03. *Voting Rights.*

Each member shall be entitled to one vote on each matter submitted to a vote of the members.

Section 2.04. *Termination of Membership.*

A member may be suspended or expelled, for cause, by the vote of not less than three-fourths of the members present at a meeting of the members, provided notice of such proposed action shall have been duly given in the notice of meeting and provided the member has been informed in writing of the charges preferred against the member at least ten days before such meeting. The members shall be given an opportunity to be heard at such meeting. The members of the board, by a majority vote of those present at any regularly constituted meeting, may terminate the membership of any member who becomes ineligible for membership and may suspend or expel any member who shall be in default with respect to any financial obligation to the corporation.

Section 2.05. *Resignation.*

Any member may resign by filing a written resignation with the secretary.

Section 2.06. *Reinstatement.*

Upon written request signed by a former member and filed with the secretary, the board may reinstate such former member to membership upon such terms as the board may deem appropriate.

Section 2.07. *Transfer of Membership.*

Membership in this corporation is not transferable or assignable.

Section 2.08. *Membership—Fees.*

The membership fee shall be $_____ or such other amount as may be fixed by the members at any annual meeting or at any special meeting called for the purpose. No person shall attain membership before paying the treasurer the membership fee.

Section 2.09. *Membership—Liability for Corporation's Obligations.*

Fully paid members shall not be liable for any debts or obligations of the corporation and shall not be subject to any assessment; but the members at any annual meeting or at any special meeting called for the purpose, may fix reasonable annual dues to become effective after not less than 30 days' notice to all members of such action.

Section 2.10. *Membership—Minimum Number.*

The board will make all reasonable efforts to maintain a broad community-wide membership of not less than 25 members at any time.

Section 2.11. *Membership—Residence.*

A majority of the members shall be residents of the community where the housing is or will be located.

Article III

Meetings of Members.

Section 3.01. *Annual Meeting.*

An annual meeting of the members shall be held at _____, on the _____ of the month of _____ each year, beginning with the year 19____, at the hour of _____ o'clock, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in said State, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting, or at any adjournment thereof, the board shall cause the election to be held at a special meeting of the members as soon thereafter as convenient.

Section 3.02. *Special Meetings.*

Special meetings of the members may be called by the president, the board, or not less than one-tenth of the members.

Section 3.03 *Place of Meeting.*

The board of directors may designate any place within or not more than ____ miles from _____ as the place for an annual meeting or for any special meeting called by the board. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the registered office of the corporation in said State.

Section 3.04. *Notice of Meetings.*

Written or printed notice stating the place, day, and hour of any meeting of members shall be delivered either personally or by mail, to each member entitled to vote at such meeting, not less than seven or more than thirty days before the date of such meeting, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting. In case of a special meeting or when required by statute of these bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at the address as it appears on the records of the corporation, with postage thereon prepaid.

Section 3.05. *Informal Action by Members.*

Any action required by law to be taken at a meeting of the members, or any action which may be taken at a meeting of the members, may be taken without a meeting upon written consent or approval of all the members, setting forth the action so taken.

Section 3.06. *Quorum.*

At such meeting, a quorum shall consist of 30 percent of the members, or twice the number of directors, whichever is greater. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

Section 3.07. *Proxies.*

(a) At any meeting of the members, a member entitled to vote may vote by proxy executed in writing by the member. No proxy shall be valid after eleven months from the date of its execution. A proxy may be canceled by notice executed by the member with like formality and delivered to the secretary.

(b) At each meeting of the members, every member shall be entitled to vote in person or by proxy and shall be entitled to cast one vote. The votes for directors shall be by ballot. Only the person in whose name membership is standing in the books of the corporation on the day of such meeting shall be entitled to vote in person or by proxy.

(c) For any person to represent a member by proxy, such person must submit a power of attorney to the secretary of the board for examination at least one hour before the time of meeting. When the secretary has certified the power of attorney is in good order, the proxy holder shall have the right to do any and all things which might be done by the member were the member present in person, which right shall include the establishment of a quorum and the organizing of any meeting.

Article IV

Board of Directors

Section 4.01. *General Powers.*

The affairs of the corporation shall be managed by its board of directors.

Section 4.02. *Number, Tenure, and Qualifications.*

The number of directors shall be _____. The directors elected at the annual meeting to succeed the directors named in the Articles of Incorporation shall be elected for staggered terms of three, two, and one year. As the terms of such directors expire, their successors shall be elected for terms of three years and until their successors are elected and have qualified. Directors shall be members of the corporation and residents of the community where the housing is or will be located. Of the total number of directors, at least five must be among the leaders in such community.

Section 4.03. *Regular Meetings.*

A regular annual meeting of the board shall be held, without other notice than these bylaws, immediately after and at the same place as the annual meeting of the members. The board may provide by resolution the time and place, within or not more than _____ miles from _____ for holding of additional regular meetings of the board without other notice than such resolution.

Section 4.04. *Special Meetings.*

Special meetings of the board may be called by or at the request of the president and shall be called by the secretary at the request of any two directors. The authorized person or persons calling a special meeting of the board may fix any place within or not more than _____ miles from _____ as the place for holding such meeting.

Section 4.05. *Notice.*

Notice of any special meeting of the board shall be given at least two days previously thereto by written notice delivered personally, or four days notice sent by mail or telegram, to each director at the director's address as shown by the records of the corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The business to be transacted at the meeting need not be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these bylaws.

Section 4.06. *Quorum.*

A majority of the board shall constitute a quorum for the transaction of business at any meeting of the board; but if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 4.07. *Manner of Acting.*

The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board, unless the act of a greater number is required by law or by these bylaws. The board may also act by written consent of all the directors of the corporation setting forth the action taken.

Section 4.08. *Vacancies.*

Any vacancy occurring in the board shall be filled by the board until the next meeting of the members and until a successor has been elected by the members to fill a vacancy. Such person shall be elected for the unexpired term of office of the predecessor in office.

Section 4.09. *Compensation.*

Directors shall not receive any compensation for their services as directors.

Section 4.10. *Director—Absence From Meetings.*

Any director who is absent from _____ consecutive meetings without excuse satisfactory to the board shall be deemed to have surrendered the office as director.

Section 4.11. *Directors—Residuary Powers.*

The board shall have the powers and duties necessary or appropriate for the administration of the affairs of the corporation. All powers of the corporation except those specifically granted or reserved to the members by law, the articles of incorporation, or these bylaws shall be vested to the board.

Section 4.12. *Directors—Removal From Office.*

A director may be removed from office, for cause, by the vote of not less than three-fourths of the members present at a meeting of the members, provided notice of such proposed action shall have been duly given in the notice of the meeting and provided the director has been informed in writing of the charges preferred against the director at least 10 days before such meeting. The director involved shall be given an opportunity to be heard at such meeting. Any vacancy created by the removal of a director shall be filled by a majority vote, which may be taken at the same meeting at which such removal takes place.

Article V

Officers

Section 5.01. *Officers.*

The officers of the corporation shall be a president, a vice president, a secretary, and a treasurer. The board may elect or appoint such other officers as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the board. The offices of secretary and treasurer may be combined and held by one person.

Section 5.02. *Election and Term of Office.*

(a) The officers of the corporation specified in Section 5.01 shall be elected from the membership of the board by the board at its annual meeting or as soon thereafter as feasible. New offices may be created and filled at any meeting of the board. Each officer shall hold office until the next annual election of directors and until a successor shall have been duly elected and shall have qualified.

(b) The term of office shall be one year. Election of officers shall take place at the annual board meeting and shall be by ballot cast by qualified directors. A plurality of votes cast shall elect.

Section 5.03. *Removal.*

Any officer elected or appointed by the board may be removed by the board by two-thirds vote of the remaining directors whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section 5.04. *Vacancies.*

A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board by majority vote for the unexpired portion of the term.

Section 5.05. *President.*

The president shall be the principal executive officer of the corporation and shall in general supervise and control all the business and affairs of the corporation. The president shall preside at all meetings of the members and of the board. The president may sign, with attestation of the secretary or any other proper officer of the corporation authorized by the board, any deeds, mortgages, bonds, contracts, or other instruments which the board authorizes to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the board of these bylaws or statutes to some other officer or agent of the corporation and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the board from time to time.

Section 5.06. *Vice President.*

In the absence of the president or in the event of an inability or refusal to act, the vice president shall perform the duties of the president and, when so acting, shall have all the powers of and be subject to all restrictions upon the president. Any vice president shall perform such other duties as from time to time may be assigned by the president of the board.

Section 5.07. *Treasurer.*

The treasurer shall give a bond for the faithful discharge of duties in such sum and with such surety or sureties as the board shall determine. The treasurer shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporation from any source whatsoever, deposit all such moneys in the name of the corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VIII of these bylaws; and in general perform all duties incident to the office of treasurer and such other duties as from time to time may be assigned by the president or the board.

Section 5.08. *Secretary.*

The secretary shall keep the minutes of the meeting of the members and the board in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these bylaws; keep a register of the post office address of each member, which shall be furnished to the secretary by such member; and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned by the president or the board.

Article VI

Order of Business

Section 6.01. *Order of Business.*

The order of business at any regular or special meeting of the members or the board shall be:

(a) Reading and approval of any unapproved minutes.

(b) Reports of officers and committees.

(c) Unfinished business.

(d) New business.

(e) Adjournment.

Section 6.02. *Parliamentary Procedure.*

On questions of parliamentary procedure not covered in these bylaws, a ruling by the president shall prevail.

Article VII

Committee

Section 7.01. *Committees of Directors.*

The board of directors, by resolution adopted by a majority of the directors in office, may designate one or more committees, each of which shall consist of one or more directors, which committees, to the extent provided in said resolution, shall have and exercise the authority of the board in the management of the corporation; but the designation of such committees and the delegation thereto of authority shall not operate to relieve the board, or any individual director, of any responsibility imposed upon the board, or any individual director, by law.

Section 7.02. *Other committees.*

Other committees not having and exercising the authority of the board in the management of the corporation may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the corporation, and the president of the corporation shall appoint the member thereof. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interest of the corporation shall be served by such removal.

Section 7.03. *Term of Office.*

Each member of a committee shall continue as such until the next annual meeting of the members of the corporation and until a successor is appointed, unless the committee shall be sooner terminated, or unless such member to be removed from such committee,

or unless such member shall cease to qualify as a member thereof.

Section 7.04. *Chairman.*

One member of each committee shall be appointed chairman by the persons authorized to appoint the members thereof.

Section 7.05. *Vacancies.*

Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 7.06. *Quorum.*

Unless otherwise provided in the resolution of the board of directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7.07. *Rules.*

Each committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the board of directors.

Article VIII

Contracts, Checks, Deposits, and Funds

Section 8.01. *Contracts.*

The board may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation; and such authority may be general or confined to specific instance.

Section 8.02. *Checks, Drafts, etc.*

All checks, drafts, or orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the corporation shall be signed by the officer or officers, agent or agents of the corporation, and in a manner as shall from time to time be determined by resolution of the board. In the absence of determination by the board, these instruments shall be signed by the treasurer and countersigned by the president of the corporation.

Section 8.03. *Deposits.*

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the board may select.

Section 8.04. *Gifts.*

The board may accept on behalf of the corporation any contribution, gift, bequest, or devise for the general purposes or for any special purposes of the corporation.

Article IX

Certificates of Membership

Section 9.01. *Certificates of Membership.*

The board may provide for the issuance, and determine the form of certificates evidencing membership in the corporation. Such certificates shall be signed by the president and the secretary, sealed with the seal of the corporation, and consecutively numbered. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the corporation. If any certificate becomes lost, mutilated or destroyed, a new certificate may be issued upon such terms and conditions as the board may determine.

Section 9.02. *Issuance of Certificates.*

When a member has been elected to membership and has paid any dues that may then be required, a certificate of membership shall be issued in his or her name and delivered to the member by the secretary.

Article X

Books and Records

The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, the board, and committees having any of the authority of the board of directors, and shall keep at the registered or principal office a record giving the names and addresses of the members. All books and records of the corporation may be inspected by any member, or member's agent or attorney, for any proper purposes at any reasonable time. The board shall cause an audit of the records of the corporation to be made each year by a competent auditor.

Article XI

Fiscal Year

The fiscal year of the corporation shall begin on the first day of January and end on the last day of December in each year.

Article XII

Seal

The board shall provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the corporation and the words, "corporate seal."

Article XIII

Waiver of Notice

Whenever any notice is required to be given under the provisions of the statutes of said State or the articles of incorporation or the bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled thereto, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Article XIV

Repeal or Amendment of Bylaws

Section 14.01. These bylaws may be repealed or amended by a majority vote of the members present at any annual meeting of the members, or at any special meeting of the members called for such purpose, at which a quorum is present: provided, however, no such action shall change the purposes of the corporation so as to impair its rights and powers under the laws of said State, or to waive any requirements of bond or any provision for the safety and security of the property and funds of the corporation or its members or to deprive any member without any express assent of rights, privileges, or immunities then existing. Notice of any amendment to be offered at any meeting shall be given not less than 7 nor more than 30 days before such meeting and shall set forth such amendment.

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned secretary of the corporation identified in the foregoing bylaws does hereby certify that the foregoing bylaws were duly adopted by the members of said corporation, as bylaws of said corporation, on the _____ day of _____, 19_____ at a duly called and constituted meeting of the members, and that they do now constitute the bylaws of said corporation.

Secretary

(Corporate Seal)

PART 1951—SERVICING AND COLLECTIONS

19. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart K—Predetermined Amortization Schedule System (PASS) Accounting Servicing

20. In § 1951.504(i), change the reference from "Exhibit B to Subpart E of Part 1944" to "Exhibit H to Subpart C of Part 1930".

PART 1965—REAL PROPERTY

21. The authority citation for Part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

22. In § 1965.65, paragraphs (a)(4), (c)(2) and (c)(11) are revised to read as follows:

§ 1965.65 Transfer of real estate security and assumption of loans.

* * * * *

(a) * * *

(4) The transfer of projects as defined in § 1944.205 of Subpart E of Part 1944 of this chapter, in which the FmHA loan transfer is needed to remove a hardship which adversely impacts the present borrower and was caused by circumstances beyond the borrower's control, such as:

* * * * *

(c) * * *

(2) All necessary repairs to assure that the housing will be decent, safe and sanitary should be made prior to the transfer whenever possible. When repairs cannot be completed prior to closing, the necessary funds will be escrowed and the repairs will be identified, agreed upon prior to closing and documented as specified in § 1924.5 of Subpart A of Part 1924 of this chapter. Also, any improvements required by FmHA to meet the accessibility requirements of Section 15b.41 of Subpart F of Part 15b of Subtitle A (see § 1944.215(b)(6) of Subpart E of Part 1944 of this chapter) should be considered

part of any substantial rehabilitation work undertaken as part of the transfer. All repairs will be in accordance with the provisions of Subpart A of Part 1924 of this chapter. Funds for such improvements or repairs will be from sources in the following priority: Transferor's equity payment; contributions by the transferee; reserve account being transferred provided the amount remaining in the reserve account will be adequate to meet the repairs and expenses in the immediate or near future; if loan funds are available, from the use of an RRH or LH loan when appropriate.

* * * * *

(11) If the transfer involves an RRH or RCH loan using interest credit with a Form FmHA 1944–7 or 444–7, "Interest Credit and Rental Assistance Agreement," in effect, the transferee may also receive interest credit by executing a new Form FmHA 1944–7 effective the date of transfer. RRH and RCH loans will not be converted from a subsidized (interest credit) basis to a nonsubsidized (full profit) basis as part of the transfer process. If the transfer is to be made on a nonprofit or limited profit basis, the transferee may receive interest credit if the loan is eligible for interest credit according to Exhibit H to Subpart C of Part 1930 of this chapter. A new Form FmHA 1944–7 will be executed by the transferee, attached to Form FmHA 1965–9, "Multiple Family Housing Assumption Agreement," and a copy of Form FmHA 1944–50, "Multiple Family Housing Borrower/Project Characteristics," and forwarded to the Finance Office, MFH Unit, when the transfer is closed. The borrower project data on Form FmHA 1944–50 should have been established when the transfer was approved.

* * * * *

23. Section 1965.68(a)(1)(x) is revised to read as follows:

§ 1965.68 Consolidation.

(a) * * *

(1) * * *

(x) After consolidation, the project will be a "project" as defined in § 1944.205 of Subpart E of Part E 1944 of this chapter.

* * * * *

Dated: January 13, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88–1042 Filed 1–25–88; 8:45 am]

BILLING CODE 3410–07–M

federal register

Tuesday
January 26, 1988

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 358

Boil Treatment Drug Products for Over-the-Counter Human Use; Tentative Final Monograph; Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 82N-0054]

Boil Treatment Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) boil treatment drug products (drug products for the temporary relief of pain an discomfort of boils) are generally recognized as safe and effective and not misbranded, FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by (March 28, 1988). New data by January 26, 1989.

Comments on the new data by March 27, 1989. Written comments on the agency's economic impact determination by May 25, 1988.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane Rockville, MD 20857.

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 June 29, 1982 (47 FR 28306), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking that would classify OTC boil ointment drug products as not generally recognized as safe and effective and as being misbranded and would declare these products to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)). The notice was based upon the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products (the Panel), 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 September 27, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by October 27, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

In response to the advance notice of proposed rulemaking, one manufacturer and one consumer submitted comments. Copies of the comments received are on public display in the Dockets Management Branch.

In order to conform to terminology used in the OTC drug review regualtions (21 CFR 330.10), the present document is designated as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Subpart E of Part 358 (21 CFR Part 358, Subpart E), FDA states for the first time its position on the establishment of a monograph for OTC boil treatment drug products. Final agency action on this matter will occur with the publication at a future date of a final rule for OTC boil treatment drug products.

This proposal constitutes FDA's tentative conclusions on OTC boil treatment drug products based on the comments received and the agency's independent evaluation of the Panel's report. Although the Panel limited its deliberations to boil ointments, the agency believes that this rulemaking appropriately should apply to any OTC drug product labeled for the treatment of boils. Accordingly, the agency is now using the term "boil treatment" throughout this rulemaking rather than "boil ointment."

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 will no longer use 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 will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register.** On or after that date, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition 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 it is 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.

In the advance notice of proposed rulemaking, the agency stated that if it proposed to adopt the Panel's recommendations it would propose that OTC boil ointment drug products be eliminated from the OTC market effective 6 months after the date of publication of a final rule in the **Federal Register.** However, in this document the agency is proposing a monograph that would establish conditions under which OTC boil treatment drug products would be generally recognized as safe and effective and not misbranded. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling

to be in effect before 12 months after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace.

If the agency determines that any labeling for a condition included in the final monograph should be implemented sooner than the 12-month effective date, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

In the event that no new data are submitted to the agency during the allotted 12-month new data period or if submitted data are not sufficient to establish "monograph conditions" for OTC boil treatment drug products, the final rule will declare these products to be new drugs under section 201(p) of the act for which applications approved under section 505 of the act (21 U.S.C. 355) and 21 CFR Part 314 are required for marketing. Such rule will also declare that in the absence of an approved application, these products would be misbranded under section 502 of the act (21 U.S.C. 352). The rule will then be incorporated into 21 CFR Part 310, Subpart E—Requirements for Specific New Drugs or Devices, instead of into an OTC drug monograph in Part 358.

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 November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

1. One comment questioned the rationale for the agency's denial of its petition dated July 21, 1982 (Ref. 1) for an extension of time for submitting comments on the advance notice of proposed rulemaking. The petition was filed so that the results of testing and supporting information could be submitted together with its comments. The comment stated that other petitions for extension of time to comment on other advance notices of proposed rulemakings have been granted and cited the rulemaking for OTC weight control drug products in which an extension of 60 days was granted (47 FR 17576; April 23, 1982). The comment also cited the granting of extensions of the comment periods in the rulemaking for OTC relief of oral discomfort drug products (60 days) and for OTC oral health care drug products (90 days). The comment contended that the Agency provided no reason for granting those petitions while denying its request. The comment regarded this as arbitrary treatment and objected to the unexplained denial which came almost 2 months after the petition was filed and less than 2 weeks before the comment period ended.

The agency acknowledges that extensions of the comment period have been granted in other OTC drug rulemakings. In the three instances cited by the comment, the request for extension of the comment period was for the purpose of providing additional time to evaluate existing data and not to await test results as the comment indicated was its reason for needing more time. In each instance, the agency provided reasons for granting the extension. (See the **Federal Register** of April 23, 1982 (47 FR 17576) and July 30, 1982 (47 FR 32952 and 32953).) Likewise, the agency provided the comment reasons why its petition was denied. The agency stated that it is more appropriate to consider reopening the administrative record for the inclusion of test data when the data are actually available for submission to the agency (Ref. 2). The agency also suggested that when the company is prepared to submit the new data and information, it could then petition the agency to reopen the administrative record.

Neither the comment nor the company has petitioned the agency to reopen the administrative record since it closed on September 27, 1982. The agency points out that under 21 CFR 330.10(a)(7), any comments on this tentative final monograph may be submitted within 60 days of the publication date in the **Federal Register**, and new data may be submitted within 12 months.

References

(1) Comment coded EXT, Docket No. 82N-0054, Dockets Management Branch.

(2) Letter to P.S. Reichertz from J.P. Hile, FDA, coded ANS, Docket No. 82N-0054, Dockets Management Branch.

2. One comment contended that the proposed regulation in the advance notice of proposed rulemaking is not based on any fact in the administrative record and is therefore arbitrary and capricious. The comment stated that the Panel's evaluation, which is the basis of the proposed rule, was limited to three short paragraphs at 47 FR 28308 and that there is nothing in the administrative record that supports the Panel's conclusion that OTC boil ointment drug products are not safe and effective. The comment stated that the Panel did not at any point in its evaluation cite or refer to an instance—a study, report, consumer complaint, or any other item of evidence—which would support its position. The comment concluded that the Panel's finding is conclusory and without any support whatsoever in the administrative record. The comment stated its belief that a rule based upon such an evaluation is arbitrary and capricious and would not withstand judicial scrutiny. The comment cited a number of court cases to support its position that a rule will not be sustained where there are inadequate facts in the record to support it, and thus the matter should be remanded to the agency for further consideration (Ref. 1).

The Panel evaluated boil ointment drug products over the course of seven meetings (47 FR 28307). In its evaluation, the Panel mentioned that it received three submissions for this type of product (47 FR 28308) and that there were eight labeled ingredients contained in the marketed products submitted (47 FR 28307). The Panel classified these 8 ingredients, plus 16 other active ingredients in boil treatment drug products, in Category II, not because of a disregard of the evidence in the administrative record, but because of its belief that the self-treatment of boils is not desirable because improper treatment or a delay in receiving proper professional treatment may cause the infection to spread. The agency has

considered the Panel's recommendations and has thoroughly evaluated all three submissions that were made to the Panel (Refs. 2, 3, and 4), as well as the comments received in response to the advance notice of proposed rulemaking and is tentatively concluding that there may be a need for such products. (See comment 5 and Part II below.) Based on that evaluation, the agency is proposing in this tentative final monograph to reclassify certain ingredients from Category II to Category III and is encouraging the submission of additional data and information to support the claims of safety and efficacy for currently marketed OTC boil treatment drug products. (See comment 5 and Part II below.) The comment's concerns that the final rule be supported by the facts in the administrative record will be addressed as the rulemaking proceeds through its subsequent steps.

References

(1) Comment No. C00001, Docket No. 82N-0054, Dockets Management Branch.
(2) OTC Volume 160005.
(3) OTC Volume160182.
(4) OTC Volume 160214.

3. One comment was against "putting more control of pharmaceutical disbursements in the hands of physicians than is necessary." The comment argued that physicians are "hard to get into see," are costly, and "do not want to be bothered until something is major." The comment contended that removal of boil ointment drug products from the OTC market would require that individuals see a doctor for relief. The comment recommended that the physician be taken out of prescribing "simple medication care" because it is time consuming, expensive, a misuse of physician resources, and a cause of unnecessary health care expense.

The purpose of the OTC drug review is to ensure that OTC drug products are safe and effective. Accordingly, the review will result in the removal of unsafe or ineffective drug products from the OTC market. Also, some products may be reformulated to contain ingredients that are found to be generally recognized as safe and effective. Products already on the market which contain ingredients that are generally recognized as safe and effective will remain available to consumers.

In some cases, entire classes of OTC products such as daytime sedatives and anticholinergics used in cough-cold drug products have been removed from the OTC market because the agency concluded that these products were not appropriate for OTC use. (See the **Federal Register** of June 22, 1979 (44 FR 36378) and November 8, 1985 (50 FR 46582).) However, in the case of boil treatment drug products, after reviewing the Panel's recommendations and the comments received, the agency questions the Panel's recommendations and believes that there may be a need for OTC boil treatment drug products. However, because no ingredients are in Category I at this time and because more data are needed, the agency is unable to determine until this rulemaking is completed whether boil treatment drug products will remain available OTC.

4. One comment, from the manufacturer of an OTC anesthetic and antiseptic ointment drug product marketed for the temporary relief of discomfort of boils, noted that if the agency accepts the Panel's Category II recommendation for all OTC boil treatment drug products, then its product would be eliminated from the OTC market (Ref. 1). The comment stated that marketing experience of its product has not indicated any safety problem associated with the OTC treatment of boils and this marketing experience shows that the product is safe for OTC use within the meaning of 21 CFR 330.10(a) (4) (i), which permits the use of marketing experience in the evaluation of the safety of an OTC drug product. The comment stated that its product has been marketed for over 27 years with over 1½ million units sold in the last 6 years and demand is increasing for the product. The comment also stated that only 18 complaints were received during the last 6 years—10 concerning mild irritation caused by the product and 8 claiming lack of effectiveness.

As discussed in comment 5 below, the agency believes that there may be a need for OTC boil treatment drug products. Even though the agency is upgrading several ingredients to Category III, there are no Category I ingredients at this time. (See Part II below.) Unless one or more of the Category III ingredients are upgraded to Category I in the final rule, the comment is correct in stating that OTC boil treatment drug products will be eliminated from the market.

The agency has considered the marketing experience of the product, which contains ichthammol, camphor, benzocaine, sulfur, phenol, and juniper tar, and evaluated the manufacturer's previous submission to the Panel (Ref. 2). (See Part II below.) The agency agrees with the comment that marketing experience can be used to support the safety of a product; nevertheless, the manufacturer did not provide sufficient information to support the safety and effectiveness of its product in the treatment of boils. As discussed in Part II below, the agency is classifying the ingredients listed above in Category III at this time and is inviting the submission of additional data and information to substantiate the safety and effectiveness of these ingredients for the treatment of boils.

References

(1) Comment Nos. C00001 and CR, Dockets Management Branch, Docket No. 82N-0054.
(2) OTC Volume 160005.

5. One comment (Ref. 1) disagreed with the Panel's conclusion that self-treatment of boils is not in the best interest of the consumer because improper treatment or a delay in receiving proper professional treatment for boils may cause the infection to spread. The comment stated that there is no safety problem associated with the treatment of boils with OTC drugs based upon marketing experience, scientific evidence, and the conclusions of leading experts in the field of dermatology and infectious diseases. The comment contended that the Panel had not cited any incidence of systemic infection which resulted from the temporary use of OTC boil ointment products. The comment added that it has received no complaints that use of its product, which has been marketed for over 27 years, has resulted in a delay in treatment that caused an infection to spread. The comment claimed that the Panel's conclusion was based on a hypothetical safety concern for which it could provide no reference and that the scientific evidence shows that human skin is difficult to infect experimentally with virulent staphylococci and/or streptococci and that, once infected, it is equally difficult to maintain the infection without seriously altering or compromising the skin of the host (Refs. 2 through 6).

The comment contended that the Panel ignored evidence (Ref. 7) that showed there is a need for a product directly available to consumers which is properly formulated to provide temporary relief from pain of boils which at the same time prevents further infection. The comment submitted a survey (Ref. 8) and contended that more than 83 percent of patients with boils suffer pain along with a boil. The comment added that relief of pain will prevent a consumer from attempting to manipulate or needle a boil and thus prevents further topical spread of infection.

The comment provided affidavits containing the views of experts in the

field of dermatology and infectious diseases regarding the safe and effective use of OTC boil ointments (Refs. 9, 10, and 11). The comment stated that the experts believe that most persons with boils never seek medical attention and that they do not require the sophisticated and expensive services of a physician because the vast majority of boils are well managed by normal host defenses and are thus self-limited. The experts referred to and agreed with the Panel's statement on boils at 47 FR 28308 that "these infections are usually minor." The comment added that the experts recognize that it can be argued that neglect of boils may lead to a need for surgery or systemic antibiotics that might not otherwise have been required; however, it cannot be argued convincingly that topical boil preparations are more likely to lead to this eventuality than hot compresses or other home remedies.

The agency agrees that the marketing experience described by the comment is supportive of the safety and effectiveness of OTC boil treatment drug products, but this experience cannot be used as the sole criterion for determining that these products are safe and effective for OTC use. After reviewing the Panel's recommendations, the data and information submitted by the comment, and the affidavits of experts in the field of dermatology and infectious diseases, the agency is tentatively concluding that there may be a need for OTC boil treatment drug products.

The agency finds that the references cited by the comment (Refs. 2 through 6) show that human skin is remarkably resistant to staphylococcal and streptococcal infection.

Duncan, McBride, and Knox (Ref. 2) state that streptococci could rarely be recovered from the skin 24 hours after removing an occlusion of the skin of children with clinical impetigo. In another experiment, *Staphylococcus pyogenes* (*S. pyogenes*) disappeared completely from the skin within 5 hours in 50 percent of their adult subjects. The authors pointed out that occlusion has been requisite in all methods of inducing infection whether the organism is yeast, dermatophyte, or bacteria, and that occlusion to the degree required for successful experimental infection rarely, if ever, occurs naturally so that the conditions of natural infection have yet to be defined.

In another study, Duncan, McBride, and Knox (Ref. 3) describe a technique of applying staphylococcus and streptococcus in the form of an overnight broth culture, stabbing through the drop of inoculum with a blood lancet, and covering the site with nonporous plastic tape. Four areas on each subject were inoculated in an identical manner. This experiment was conducted to find a reproducible experimental skin infection so that further studies could be undertaken on the pathogenesis of cutaneous infections. Successful infection of the back in 15 percent, the arm in 13 percent, the thigh in 21 percent, and the leg in 38 percent of the attempts provided further evidence that skin is difficult to infect.

Foster and Hutt (Ref. 4) introduced staphylococci into artificial skin lesions to try to determine whether local conditions influenced multiplication of organisms or the course of the subsequent lesion, whether different types of staphylococci varied in pathogenicity, and what was the smallest infecting dose. Covered lesions showed a considerable increase in the numbers of organisms between 2 and 8 hours, followed by a slower increase over the next 14 hours; whereas, there was virtually no increase in numbers in the uncovered lesions even after 24 hours.

Singh, Marples, and Kligman (Ref. 5) reported that *Staphylococcus aureus* (*S. aureus*) infections have been consistently induced in normal human skin by applying large inocula to areas degermed with ethanol and kept moist under occlusive dressing. The organisms were confined to the surface and did not proliferate within the living portion of the skin. Removal of the dressing was followed by swift death of almost all organisms, followed by immediate resolution of the lesion within a few days.

Elek (Ref. 6) discusses a number of experiments on man that were conducted to establish whether or not differences in the resulting lesions could be demonstrated (by pus formation) between randomly selected nasal strains of *S. pyogenes* and other strains obtained from human lesions, which were therefore presumed to be virulent. Elek concluded that man appears to possess a high degree of natural resistance to *S. pyogenes*. No differences in the virulence of known pyogenic strains and nasal strains from unselected carriers could be demonstrated by accepting pus formation in man as the criterion of virulence.

Although the studies above show the difficulty in producing skin infection, none of the references specifically discusses the relationship of staphylococcal and streptococcal infection to the occurrence of boils. However, Bynoe (Ref. 12) comments on Elek's suggestion (Ref. 6) that there is no difference in the virulence of different strains of coagulase-positive staphylococci, whether from pyogenic lesions or from nasal carriers. Bynoe referred to a specific case in which a nurse came on duty with a boil on her face, and, within a few days, there were two severe infections in the nursery. Cultures from the nurse with the boil and from the two infected babies were all the same type.

The specific case cited by Bynoe (Ref. 12) would support the possibility that infection from boils can occur. However, in light of the other studies (Refs. 2 through 6) that support the difficulty of producing skin infection, the agency believes that a safety concern that infection may spread may not be a major problem. However, the agency concludes that additional information is needed before the agency can fully address the Panel's concerns that improper treatment or a delay in receiving professional treatment for boils may cause the infection to spread.

The results of the survey submitted by the comment (Ref. 8) can be summarized as follows: The rate of furunculosis (occurrence of boils) remains low in the United States with regional variations from 1.4 to 3.0 percent; persons plagued with boils average 2.89 attacks per year with males being more susceptible than females; symptoms that disturbed boil sufferers most were primarily pain (219 out of 257) and secondly cosmetic appearance (32 out of 257); approximately 72 percent of boil sufferers did not visit a physician; patients with boils visited a physician more frequently as the number of boils increased, indicating that patients know when to contact a physician; in self-medication approximately 49 percent of sufferers used medication, 45 percent used compresses, and 12 percent did nothing at all; and the majority of sufferers were satisfied with the treatment used while only 11 percent felt the treatment was not satisfactory. In addition, the survey indicated that 175 subjects were satisfied with their treatment as opposed to 28 subjects who were dissatisfied. For drugs being evaluated in the OTC drug review, the number of very satisfactory and somewhat satisfactory treatment evaluations compared to the number of not very satisfactory and not at all satisfactory treatment evaluations was 16 to 2 for the comment's product, 6 to 0 for a product containing ichthammol, and 8 to 0 for an unspecified drawing salve. The survey also indicated that patients visited a physician more frequently as the number of boils

increased, suggesting that patients are alerted to contact a physician if the condition is more than something minor or if the treatment is ineffective.

In one of the affidavits submitted by the comment, Ulrich (Ref. 9) concluded that the data above are convincing proof of the need for OTC boil ointment drug products. Ulrich stated that boils last from several days to several weeks and are generally defined as an infection of the hair follicle which produces a painful cellulitis with *S. aureus* as the most common infecting organism, but other pyogenic cocci and bacilli or gram negative bacteria may also be involved.

In another affidavit, Duncan (Ref. 10) stated that over a 15-year practice many patients "present with their second or third inflammatory episode with a boil—the initial episode(s) having resolved to the patients' satisfaction, with or without OTC medicament, demonstrating the basic tendency of boils not to spread." Duncan also discussed the studies (Refs. 2 through 6) described above and concluded that human skin is difficult to experimentally infect with virulent staphylococci and/or streptococci and that the spread of infection from a boil is remote.

In the third affidavit, Drutz (Ref. 11) stated that most persons with boils never seek medical attention and that most patients do not require the sophisticated and expensive services of a physician because the vast majority of boils are well managed by normal host defenses and are thus self-limited. Drutz also states that local spread of boils may occur from one locus to another, or spread may be hematogenous with septicemia, metastatic abscess formation, or even endocarditis. However, Drutz contends that evidence that topical preparations increase the risk of spread in patients with chronic recurring boils is lacking.

Based on the information provided in the affidavits, the results of the survey, and the references to support the suggestion that the spread of infection may not be a serious problem, the agency tentatively concludes that there may be a need for OTC boil treatment drug products. Although there appears to be minimal safety problems in the self-treatment of boils, the agency believes that these products should be used only for a limited amount of time and that if the boil worsens, then the labeling of the product should direct the consumer to see a doctor. Accordingly, the agency is proposing that these products contain warning information not to use the product for more than 7 days and if the condition worsens, to consult a doctor. The warning is based on the results listed in Table 6 of the survey (Ref. 8) in which the number of sufferers who had a doctor treat a boil is compared to the number of days the sufferer had the boil before seeing the doctor. The comparison includes groups of sufferers from various geographic areas as well as groups segmented by sex and age. The average number of days before sufferers saw a doctor was 6.32. The agency is therefore proposing 7 days to be consistent with a number of other OTC drug rulemakings which provide for a 7-day limitation for use. (See, for example, the tentative final monograph for OTC external analgesic drug products (48 FR 5852; February 8, 1983) and the tentative final monograph for OTC skin protectant drug products (48 FR 6820; February 15, 1983).)

Based upon the results of this survey and the additional references, the agency has upgraded some of the ingredients used in OTC boil treatment drug products from Category II to Category III. The agency is interested in receiving additional public comment on the usefulness of these products and on whether self-treatment of boils is appropriate. The agency is also requesting additional clinical data from studies conducted in the target population demonstrating that the ingredients used in OTC boil treatment drug products are safe and effective for this use.

References

(1) Comment Nos. C00001, CR, CR0002, CR0003, and SUP, Docket No. 82N–0054, Dockets Management Branch.

(2) Duncan, W.C., M.E. McBride, and J.M. Knox, "Experimentally Induced Cutaneous Infections in Man," *in* "Skin Microbiology. Relevance to Clinical Infection," Edited by H.I. Maibach and R. Aly, Springer-Verlag, New York, pp. 220–230, 1981.

(3) Duncan, W.C., M.E. McBride, and J.M. Knox, "Experimental Production of Infection in Humans," *Journal of Investigative Dermatology*, 54:319–323, 1970.

(4) Foster, W.D., and M.S.R. Hutt, "Experimental Staphylococcal Infections in Man," *Lancet*, 2:1373–1375, 1960.

(5) Singh, G., R.R. Marples, and A.M. Kligman, "Experimental *Staphylococcus Aureus* Infections in Humans," *Journal of Investigative Dermatology*, 57:149–162, 1971.

(6) Elek, S.D., "Experimental Staphylococcal Infections in the Skin of Man," *Annals of the New York Academy of Sciences*, 65:85–89, 1956.

(7) OTC Volume 160005.

(8) Home Testing Institute, "Boil-Ease Study No. 7034," Unpublished study in Comment No. SUP, Docket No. 82N–0054, Dockets Management Branch.

(9) Ulrich, J.A. Affidavit contained in Comment No. SUP, Docket No. 82N–0054, Dockets Management Branch.

(10) Duncan, W.C., Affidavit contained in Comment No. SUP, Docket No. 82N–0054, Dockets Management Branch.

(11) Drutz, D.J., Affidavit contained in Comment No. SUP, Docket No. 82N–0054, Dockets Management Branch.

(12) Bynoe, E.T., Discussion of the Paper, "Experimental Staphylococcal Infections in the Skin of Man," *Annals of the New York Academy of Sciences*, 65:89–90, 1956.

II. The Agency's Evaluation of the Submissions

Because the Panel did not review specific ingredients or products for use in OTC boil ointment drug products, the agency has reviewed all the submissions to the Panel and has the following specific comments:

1. One submission to the Panel contained information on a marketed product containing 40 to 43 percent magnesium sulfate labeled as a drawing ointment for external application to pimples and blemishes associated with acne and also for boils and carbuncles (Ref. 1).

The submission did not contain any clinical data or information on the use of magnesium sulfate for the relief of boils, but did contain a very brief overview of the historical use of magnesium sulfate and a discussion regarding osmotic pressure and the resulting drawing action of magnesium sulfate. A brief summary of the submission follows.

Magnesium sulfate (epsom salts) has been used for many years to alleviate local inflammatory conditions by using concentrations of 20 to 50 percent in warm water to reduce common inflammation by virtue of an osmotic gradient action. Magnesium sulfate provides a drawing action using the mechanism of osmotic pressure which brings about diffusion between solutions of different concentrations or between a solute and the fluid in which it is dissolved. A concentration of the magnesium ion on the skin surface causes fluid of the skin tissue to move the skin surface. The greatest concentrations of magnesium sulfate needed to bring about osmotic pressure sufficient to withdraw tissue fluids would be absorbed by the skin in only a small amount, and the body would tolerate even larger quantities without side effects. The submission pointed out that the marketed product is a saturated solution of magnesium sulfate incorporated into a hydrophilic ointment base, and that the effectiveness of the product as a drawing ointment for boils and carbuncles is due to the fact that there is twice as much saturated solution of magnesium sulfate as there is ointment base and, as a result, the product works by the principle of osmotic pressure. The submission added that magnesium sulfate in a wet dressing or hot pack relieves pain by its

local anesthetic effect and relieves swelling by withdrawing fluid from the tissues.

Regarding safety, the submission stated that magnesium sulfate can be taken internally as a saline cathartic in doses of 15 grams (g) and is not absorbed from the intestinal tract. (FDA supported the safety of taking large doses of magnesium sulfate internally when the agency issued a tentative final monograph for OTC laxative drug products in the **Federal Register** of January 15, 1985 (50 FR 2124) and proposed Category I status for magnesium sulfate in doses of 10 to 30 g as a saline laxative.) The submission contended that very little, if any, magnesium sulfate is absorbed from its ointment product because, in the principle of osmotic pressure, the fluid comes toward the surface of the skin or the area at the greatest concentration of the magnesium ion, with very little magnesium sulfate being absorbed.

Another submission to the Panel contained a label for a product containing magnesium sulfate 18.3 g (61 percent) and benzocaine 150 milligrams (mg) (0.5 percent) in each 30 g of propylene glycol base (Ref. 2). The label stated that the product was a local anti-inflammatory agent to be used as a topical dressing for minor infections such as boils and pimples. The submission did not contain any additional information.

These two submissions did not contain sufficient information to support the effectiveness of magnesium sulfate and benzocaine for the labeled claims. However, the agency concludes that 40 to 61 percent magnesium sulfate is safe when used externally. Based on the information submitted, the agency cannot determine whether magnesium sulfate is effective in treating boils and is classifying this ingredient in Category III at this time. The use of benzocaine is discussed below. (See paragraph 2(c) below.)

References

(1) OTC Volume 160214.
(2) OTC Volume 160182.

2. The third submission (Ref. 1) to the Panel contained information on a product claiming to be a pain-relieving drawing salve for boils and an anesthetic-antiseptic. Because the submission was dated January 10, 1974, the agency obtained a package of the currently marketed product; it listed the active ingredients as ichthammol 1.86 percent, camphor 1.6 percent, benzocaine 0.5 percent, sulfur 0.44 percent, phenol 0.42 percent, and juniper tar 0.11 percent and was labeled as an antiseptic drawing salve and for fast relief from painful boils. The list of ingredients in the submission and in the currently marketed product differ (rosin and thymol have been deleted and sulfur has been added); accordingly, the agency is discussing and classifying only the ingredients in the currently marketed product.

[Note.— The agency recently became aware that the product has been reformulated again and has also been relabeled (Ref. 2). Nevertheless, none of the agency's tentative conclusions discussed in this document are affected by these changes because the administrative record lacks sufficient information regarding the use of the product's ingredients for the treatment of boils. The agency invites the submission of additional information.]

(a) *Ichthammol.* This ingredient has been used for the treatment of boils (Refs. 3 and 4) and has been used for a variety of skin disorders because of its anti-inflammatory, vasoconstrictive, astringent, irritant, antibacterial, emollient, demulcent, and antiseptic properties (Refs. 3 through 7). It has also been reported to cause hyperepithelialization (Ref. 4) and to produce a local stimulant effect which tends to improve peripheral circulation (Ref. 7). Although historically ichthammol has been commonly referred to as a "drawing" salve for the treatment of boils, the submission did not include any clinical data that demonstrate such an effect. Because of insufficient information at this time, the agency cannot determine whether this ingredient is safe and effective in a concentration of 1.86 percent as an antiseptic or for its "drawing" action for the treatment of boils. Therefore, the agency is classifying ichthammol in Category III.

(b) *Camphor.* Camphor has been classified as a Category I analgesic, anesthetic, and antipruritic in the tentative final monograph for OTC external analgesic drug products. (See the **Federal Register** of February 8, 1983; 48 FR 5867 to 5868.) In that publication, the agency concurred with the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products that camphor in concentrations of 0.1 to 3 percent is safe and effective for the temporary relief of pain, itching, or pain and itching associated with monor burns, sunburn, minor cuts, scrapes, insect bites, or minor skin irritations. Because the tentative final monograph for OTC external analgesic drug products does not specifically discuss the use of camphor for the treatment of boils and because the submission to this rulemaking contained insufficient information, the agency is classifying camphor in a concentration of 1.6 percent in Category III.

(c) *Benzocaine.* While the submission to this rulemaking (Ref. 1) contained published articles regarding the safety and effectiveness of benzocaine, none involved the use of benzocaine on boils. Benzocaine was also classified in Category I in the external analgesic tentative final monograph for the temporary relief of pain, itching, or pain and itching in concentrations of 5 to 20 percent. Because the submission contained insufficient information that benzocaine in a concentration of 0.5 percent is safe and effective for the treatment of boils, the agency is classifying this ingredient in Category III.

(d) *Sulfur.* The only discussion of sulfur in the submitted information was a brief reference to its use in the treatment of scabies in a naval hospital (Ref. 8); there is no mention of its use in the treatment of boils. The agency assumes the intended use of sulfur in the product relates to the antiseptic claim in the products' labeling. In this light, the agency notes that in the advance notice of proposed rulemaking for OTC antifungal drug products that was published in the **Federal Register** of March 23, 1982 (47 FR 12480), sulfur was described as an antifungal agent due to its keratolytic effect and was classified in Category III. (See 47 FR 12549.) Similarly, in the same issue of the **Federal Register** (47 FR 12430), the advance notice of proposed rulemaking for OTC acne drug products discusses the rationale for the use of sulfur in acne because of its keratolytic and antibacterial effects. (See 47 FR 12447.) Sulfur was classified in Category I in that rulemaking. However, because there is insufficient information for the use of sulfur in a concentration of 0.44 percent to treat boils, the agency is placing this ingredient in Category III at this time.

(e) *Phenol.* In the **Federal Register** of January 6, 1978 (43 FR 1210), the Advisory Review Panel for OTC Antimicrobial Drug Products classified phenol in Category III for several antimicrobial uses in concentrations of 1.5 percent or less. In the **Federal Register** of February 8, 1983 (48 FR 5852), phenol 0.5 to 1.5 percent was classified in Category I as an analgesic, anesthetic, and antipruritic. (See 48 FR 5867.) Because these rulemakings do not address the use of phenol in the treatment of boils and because there is insufficient information to make a determination at this time, the agency is classifying phenol in Category III.

(f) *Juniper tar.* In the tentative final monograph for OTC external analgesic drug products, juniper tar in concentrations of 1 to 5 percent was classified in Category I as an analgesic, anesthetic, and antipruritic (48 FR 5867). However, because that rulemaking did not specifically address the use of juniper tar for the treatment of boils and because there is insufficient information in the submission to this rulemaking, the agency cannot make a determination on the safety and effectiveness of juniper tar in a concentration of 0.11 percent at this time. Therefore, the agency is classifying juniper tar in Category III at this time.

The submission did not contain any safety or effectiveness data on the use of any of the ingredients above individually in treating boils. Clinical data are needed to establish the safety and effectiveness of using these ingredients to provide relief from the pain and discomfort of boils. The "drawing" action of ingredients such as magnesium sulfate or ichthammol and the antiseptic action of sulfur and phenol on a boil needs to be shown clinically. Without such information, the agency is unable to determine that any of these ingredients are generally recognized as safe and effective for these uses.

References

(1) OTC Volume 160005.

(2) Letter from H.W. Gordon, Commerce Drug Co., Inc., to W.E. Gilbertson, FDA, is contained in OTC Volume 16LTFM.

(3) Wilkinson, D.S., "Topical Therapy," *in* "Textbook of Dermatology," 2d Ed., Volume II, edited by A. Rook, D.S. Wilkinson, and F.J.G. Ebling, Blackwell Scientific Publications, Oxford, p. 2072, 1972.

(4) Harvey, S.C., "Topical Drugs," *in* "Remington's Pharmaceutical Sciences," 17th Ed., edited by A.R. Gennaro, Mack Publishing Co., Easton, PA, p. 781, 1985.

(5) Reynolds, J.E.F., and A.B. Prasad, editors, "Martindale. The Extra Pharmacopeia," 28th Ed., The Pharmaceutical Press, London, p. 496, 1982.

(6) Harvey, S.C., "Antiseptics and Disinfectants," *in* "Goodman and Gilman's The Pharmacological Basis of Therapeutics," 7th edition, edited by L.S. Goodman and A. Gilman, Macmillan Publishing Co., New York, p. 972, 1985.

(7) Osol, A. and R. Pratt, The United States Dispensatory, 27th edition, J.B. Lippincott Co., Philadelphia, p. 610, 1973.

(8) Carpenter, C.C., et al., "Scabies and Pediculosis Treated with Benzyl Benzoate, DDT, Benzocaine Emulsion," *The Journal of Investigative Dermatology*, 14:93–98, 1946.

III. The Agency's Tentative Conclusions on OTC Boil Treatment Drug Products

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. Summary of Ingredient Categories

The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and has made some changes in the categorization of boil treatment active ingredients recommended by the Panel. As a convenience to the reader, the following list is included as a summary of the categorization of boil treatment active ingredients recommended by the Panel and the proposed categorization by the agency.

Boil ointment active ingredients	Panel	Agency
Aminoacridine hydrochloride	II	II
Benzocaine	II	III
Bismuth subnitrate	II	II
Camphor	II	III
Cholesterol	II	II
Extract of ergot	II	II
Hexachlorophene	II	II
Ichthammol	II	III
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Methyl salicylate	II	II
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Oxyquinoline sulfate	II	II
Petrolatum	II	II
Phenol	II	III
Pine tar	II	II
Rosin	II	II
Rosin cerate	II	II
Sulfur	NA	III
Thymol	II	II
Zinc oxide	II	II

[1] Although "isobutyl-p-aminobenzoate" was the name designated by the Panel for this ingredient, "isobutamben" is the official title for this ingredient in the "USAN and the USP dictionary of drug names, 1987."

2. Testing of Category II and Category III Conditions

Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any boil treatment ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). That policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made by the agency follows.

1. Based on submitted information not available to the Panel, the agency tentatively concludes that there may be a need for OTC boil treatment drug products and that manufacturers should be afforded an opportunity to provide additional data to support continued marketing of these drug products. In addition, the agency is proposing the following warning, "Do not use this product for more than 7 days. If condition worsens or does not improve, consult a doctor." (See Part I. paragraph 5. above.) The agency is also proposing two additional warnings, "For external use only" and "Avoid contact with the eyes." Use of both statements is consistent with the warnings included in a number of other OTC drug monographs for topical drug products. (See, example, the tentative final monograph for OTC external analgesic drug products (48 FR 5852; February 8, 1983); the tentative final monograph for OTC skin protection drug products (48 FR 6820; February 15, 1983); and the final monograph for OTC topical otic drug products (51 FR 28656; August 8, 1986).)

2. The agency is aware that a manufacturer of an OTC boil treatment drug product filed comments following the publication of the tentative final monograph for OTC external analgesic drug products (Ref. 1). The manufacturer raised two basic issues involving labeling of boil treatment products. One issue was a request to revise the labeling indication for local anesthetics used as external analgesics to include relief of pain and itching associated with boils. This request will be considered within the context of the external analgesic rulemaking at a later date. The other issue, which concerned an additional warning for boil treatment drug products, will be addressed in this document. The manufacturer suggested the additional warning as follows: "Do not use on boils on the lips, nose, cheeks, or forehead. Seek professional assistance for treatment of boils in these areas." The manufacturer also stated that an additional warning statement is needed to warn consumers to consult a doctor "if fever or redness around the boil develops."

The agency notes that the Panel stated that the use of systemic antimicrobial therapy is indicated for boils associated with a surrounding redness or those associated with fever, or located on the upper lip, nose, cheeks, or forehead. (See 47 FR 28308). After reviewing the Panel's comments, the agency agrees with the manufacturer that the additional warnings are needed. Accordingly, the agency is including the warning recommended by the manufacturer but is making a minor revision to make the wording more consistent with other tentative final monographs. The agency is revising the limitation for use warning discussed in paragraph 1 above to include the manufacturer's suggested warning statement regarding the development of fever or redness around a boil but is revising the statement for clarity. The revised warnings will read, "Do not use on boils on the lips, nose, cheeks, or forehead: Consult a doctor for treatment of boils in these areas" and "Do not use this product for more than 7 days. If condition worsens or does not improve, if fever occurs, or if redness around the boil develops, consult a doctor."

Reference

(1) Comment No. C00081, Docket No. 78N-0301, Dockets Management Branch.

3. The agency is proposing that magnesium sulfate, benzocaine, camphor, ichthammol, juniper tar, and phenol be reclassified from Category II to Category III and that sulfur be classified in Category III. (See Part II. paragraphs 1. and 2. above.)

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). The proposed rule in this document is subject to the final rule revising the labeling policy.

The agency has examined the economic consequences of this proposed rulemaking 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 proposed rule for OTC boil ointment 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, this particular rulemaking for OTC boil ointment drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invited public comment in the advance notice of proposed rulemaking regarding any impact that this rulemaking would have on OTC boil ointment drug products. No comments on economic impacts were received. Any comments on the agency's initial determination of the economic consequences of this proposed rulemaking should be submitted by May 25, 1988. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before March 28, 1988, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before May 25, 1988. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before January 26, 1989, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before March 27, 1989. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on March 27, 1989. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register**, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 358

Labeling, Over-the-counter drugs, Boil treatment drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 358 (proposed in the **Federal Register** of September 3, 1982; 47 FR 39108), by adding new Subpart E, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart E—Boil Treatment Drug Products

Sec.

358.401 Scope.
358.403 Definition.
358.410 Boil treatment active ingredients. [Reserved]
358.450 Labeling of boil treatment drug products.

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 E—Boil Treatment Drug Products

§ 358.401 Scope.

(a) An over-the-counter boil treatment drug product in a form suitable for topical application 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.

§ 358.403 Definition.

As used in this subpart:

Boil treatment drug product. A drug product for the temporary relief of pain and discomfort of boils.

§ 358.410 Boil treatment active ingredients. [Reserved]

§ 358.450 Labeling of boil treatment 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 "boil treatment."

(b) *Indications.* The labeling of the product states under the heading "Indications," the following: "For the temporary relief of pain and discomfort of boils." 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) "Do not use on boils on the lips, nose, cheeks, or forehead. Consult a doctor for treatment of boils in these areas."

(2) "For external use only."

(3) "Avoid contact with the eyes."

(4) "Do not use this product for more than 7 days. If condition worsens or does not improve, if fever occurs, or if redness around the boil develops, consult a doctor."

(d) *Directions.* [Reserved]

Dated: October 30, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 88–1454 Filed 1–25–88; 8:45 am]

BILLING CODE 4160–01–M

federal register

Tuesday
January 26, 1988

Part IV

Department of the Interior

Minerals Management Service

Request for Interest; Gulf of Alaska/ Cook Inlet, Lease Sale 114; Notice

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Request for Interest
Gulf of Alaska/Cook Inlet
Lease Sale 114

Purpose

The Gulf of Alaska/Cook Inlet proposed Outer Continental Shelf (OCS) Oil and Gas Lease Sale has been designated as a Frontier Exploration Sale in the Final 5-Year OCS Oil and Gas Leasing Program for Mid-1987 to Mid-1992, dated July 1987. Sale 114 is being reviewed by the Secretary of the Interior to determine whether the OCS presale process should be initiated for this sale. The oil and gas industry is asked to assist in this process by providing up-to-date information on its interest in leasing and exploring within the Gulf of Alaska/Cook Inlet Planning Areas.

If a decision is made to begin the OCS presale process for this sale, a Call for Information and Nominations and Notice of Intent to Prepare an Environmental Impact Statement would be issued in May 1988 with a sale proposed for September 1990. If interest is determined to be insufficient to justify proceeding with the presale process, the sale can be canceled or delayed and a Request for Interest (RFI) reissued on an annual or other basis until interest is determined to be sufficient to hold the sale or the sale is canceled.

Use of Information from Request

The responses will assist the Secretary of the Interior to determine if the presale process for the proposal should be started, delayed, or canceled. This approach is designed to add flexibility to the program by providing for the reasonable possibility that changes in geological data, economic, or other conditions could create bidding interest in the future in areas that now appear unattractive. For example, a substantial oil price increase (such as might result from an oil supply disruption), if anticipated to be relatively long term, could make an area presently unattractive to potential bidders one that could be of interest to them at a future date. Other information of interest would include new geophysical data, new geological data, new interpretations of existing data, and new estimates of costs of production. By receiving information on industry interest prior to the issuance of the Call, the Federal Government and other parties can avoid unnecessary expenditures on the lengthy and costly presale process.

The presale process includes the following steps: Call for Information and Nominations and Notice of Intent to Prepare an Environmental Impact Statement (EIS), Area Identification, draft EIS, Public Hearings, final EIS, proposed Notice of Sale, Governor's Comments, and final Notice of Sale. For Alaska sales, the entire process takes approximately 28 months.

Description of Area

The Gulf of Alaska Planning Area is located south from approximately 151° 55' W. longitude at 59° 05' N. latitude to the Submerged Lands Act (SLA) limit at approximately 59° N. latitude, thence east to 148° W. longitude, thence south to 58° N. latitude, thence east to 147° W. longitude, thence south to 53° N. latitude, thence east to 141° W. longitude, thence generally northeast along the limit of U.S. jurisdiction to the SLA limit, thence along the SLA limit to point of origin. The planning area includes approximately 23,900 blocks and partial blocks covering approximately 132.4 million acres.

The Cook Inlet Planning Area is located east from approximately 56° 57' N. latitude at 156° 25' W. longitude to the intersection with the SLA limit, thence generally northeast along the SLA limit to approximately 152° 27' W. longitude, thence north to the SLA limit, thence around the SLA limit to approximately 59° N. latitude at 152° W. longitude, thence north to the SLA limit, thence following the SLA limit to the point of origin. The planning area includes approximately 1,100 blocks and partial blocks covering approximately 5.4 million acres.

The total area open for comment at this time consists of approximately 25,000 blocks and partial blocks (approximately 137.7 million acres) and is outlined on the attached map. A larger scale map of the Gulf of Alaska/Cook Inlet Planning Areas is available from the Records Manager, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508-4302, telephone (907) 261-4621.

Previous Sale-Related Activities

Gulf of Alaska

There have been two previous lease sales and one reoffering sale held in the Gulf of Alaska area: Sale 39 held in April 1976, Sale 55 held in October 1980, and Sale RS-1 held in June 1981. As a result of those sales, over $669.7 million was collected in bonuses for the 112 leases issued. All of those leases have been relinquished or have expired. Sale 88, Gulf of Alaska/Cook Inlet, was originally to have been held in December 1984 but, after a long postponement, was canceled

May 2, 1986. A Gulf of Alaska sale (March 1988) appeared on the March 1985 Draft Proposed 5-Year OCS Oil and Gas Leasing Schedule. An RFI was published October 31, 1985, in the Federal Register at 50 FR 45574 which included the entire Gulf of Alaska Planning Area. However, industry interest was insufficient to justify proceeding with the sale process. This sale did not appear on subsequent schedules.

A Deep Stratigraphic Test well has been drilled in this area. In addition, 12 exploratory wells were drilled without commercial discovery of oil and gas. All 12 wells have been plugged and abandoned.

Cook Inlet

There have been two previous lease sales and one reoffering sale held in the Cook Inlet area: Sale CI held in October 1977, Sale 60 held in September 1981, and Sale RS-2 held in August 1982. As a result of those sales, over $402.8 million was collected in bonuses for the 100 leases issued. All of those leases have been relinquished or have expired. The last scheduled lease sale for this area, Sale 88, Gulf of Alaska/Cook Inlet, was originally to have been held in December 1984. After a long postponement, Sale 88 was canceled May 2, 1986, due to lack of industry interest.

One Deep Stratigraphic Test well has been drilled in this area. In addition, 13 exploratory wells were drilled without commercial discovery of oil and gas. All 13 wells have been plugged and abandoned.

Instruction on Request for Interest

Information regarding leasing and exploring in the Gulf of Alaska/Cook Inlet Planning Areas may be provided by mail, telephone, or, alternatively, informal meeting with the Regional Director or a designated representative. General or detailed information may be submitted. Specific responses are requested on the advisability of selecting one of the following options for the planning areas: proceed with the OCS presale process, cancel the OCS presale process, or delay the sale process pending publication of a future RFI.

In order to be included in the review process, information must be submitted no later than 45 days following publication of this document in the Federal Register. Receipt of the information will be facilitated if the envelope is marked "Request for Interest on Proposed Lease Sale 114, Gulf of Alaska/Cook Inlet." The telephone number and name of a person to contact in the respondent's organization for additional information should be included.

Letters should be mailed or hand delivered to the Regional Supervisor for Leasing and Environment, Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508-4302. Telephone responses may be made to Mr. Tom Warren at (907) 261-4691 or to Mr. Kent Dirlam at (202) 343-5121. A copy of the response should be sent to the Chief, Offshore Leasing Management Division, Department of the Interior, Minerals Management Service, Room 4230 (Mail Stop 645), Washington, D.C. 20240. Hand deliveries to the headquarters office may be made at 18th and C Streets, NW., Room 2523, Washington, D.C.

Approved:

Wm. D. Bettenberg

Director, Minerals Management Service

Wm. D. Bettenberg

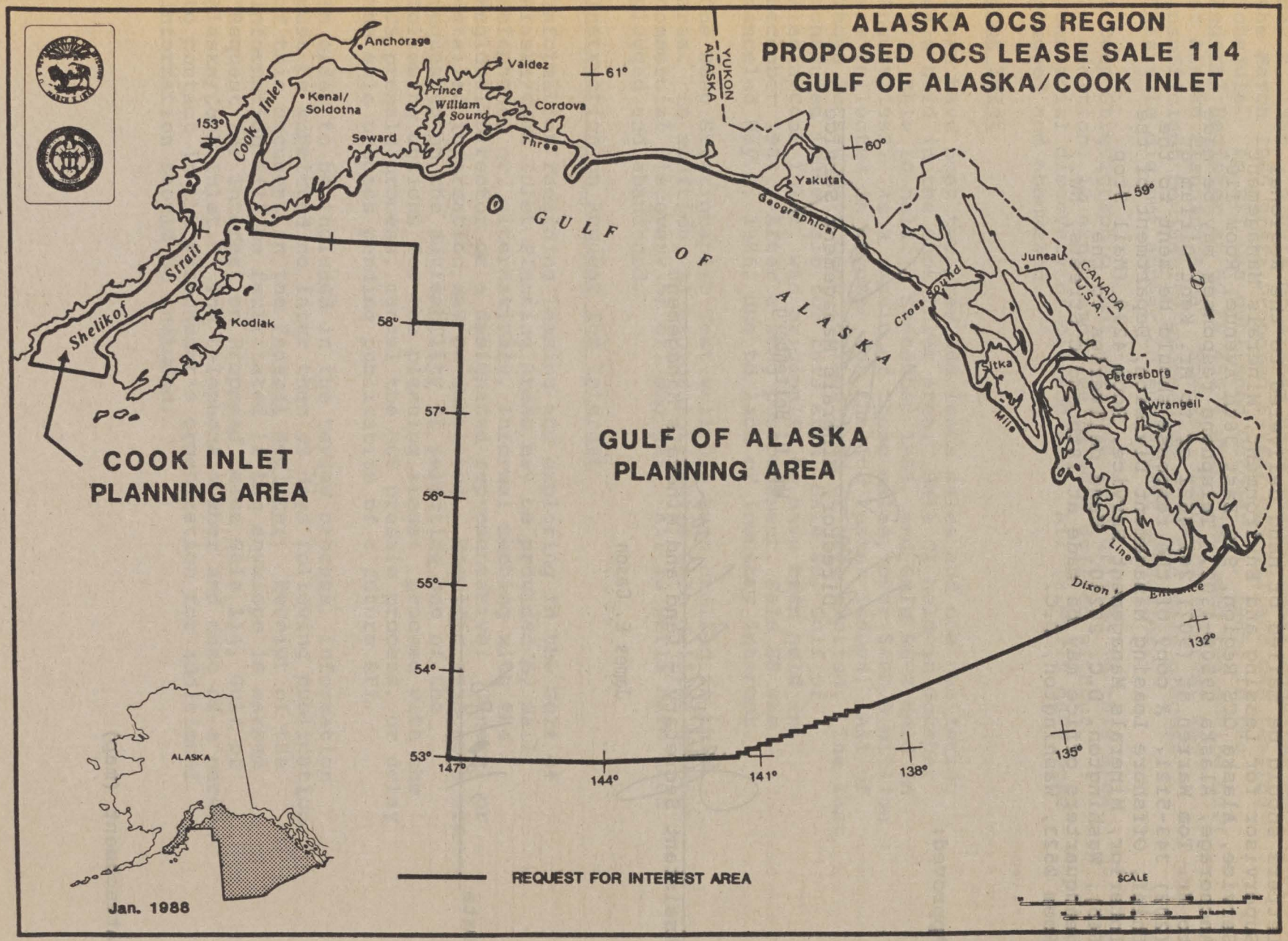
James E. Cason

ACTING Assistant Secretary - Land and Minerals Management

James E. Cason

Date 1/20/88

Attachment (map)



[FR Doc. 88–1551 Filed 1–25–88; 8:45 am]

BILLING CODE 4310–MR–C

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