AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-15-89
Vol. 54 No. 92

federal register

Monday
May 15, 1989

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

5-15-89
Vol. 54 No. 92
Pages 20783-21042

federal register

Monday
May 15, 1989

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

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 90412-9122]

Carbon Thermal Insulating Materials—ECCN 1734A; Decontrol to Country Groups T and V

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls.

This rule amends the validated license controls on exports of carbon thermal insulating materials controlled under Export Control Commodity Number 1734A on the CCL. Exports of such material no longer require a validated license for exports to Country Groups T and V, except the People's Republic of China and Afghanistan.

Previously, these items could be exported under General License GFW to all countries listed in Supplement Nos. 2 and 3 to Part 773 of the Export Administration Regulations. This rule allows exports of these items to all Free World countries under General License G-DEST. This action is intended to streamline U.S. export control requirements without injuring national security interests and make U.S. controls more comparable to those of other suppliers.

DATE: This rule is effective May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tripp, Capital Goods Technical Center, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-1309.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Request for Comment

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is being issued in final form. However, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 799 of the Export Administration Regulations (15 CFR Parts 700-799) is amended as follows:

PART 799—[AMENDED]

1. The authority citation for Part 799 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§ 799.1 [Amended].

2. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1734A is amended by removing the *GFW Eligibility* paragraph and by revising the *Validated License Required* and *GLV $ Value Limit* paragraphs to read as follows:

1734A Low density, rigid, carbon-bonded, fibrous or non-fibrous carbon thermal insulating materials as described in this entry.

Controls for ECCN 1734A

Unit: * * *

Validated License Required: Country Groups QSWYZ, the People's Republic of China, and Afghanistan.

GLV $ Value Limit: $0 for all destinations.

* * * * *

Dated: May 11, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-11719 Filed 5-11-89; 2:18 pm]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, and 442

[Docket No. 89N-0101]

Antibiotic Drugs; Cefotiam Dihydrochloride for Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, cefotiam dihydrochloride for injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 14, 1989; comments, notice of participation, and request for hearing by June 14, 1989; data, information, and analyses to justify a hearing by July 14, 1989.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, cefotiam dihydrochloride for injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR Parts 430, 436, and 442 to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, is effective June 14, 1989. However, interested persons may, on or before June 14, 1989, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before June 14, 1989, a written notice of participation and request for hearing, and (2) on or before July 14, 1989, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 430, 436, and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR Part 430 continues to read as follows:

Authority: Secs. 507, 701(a), 59 Stat. 463 as amended, 52 Stat. 1055 (21 U.S.C. 357, 371(a)); 21 CFR 5.10.

2. Section 430.4 is amended by adding new paragraph (a)(60) to read as follows:

§ 430.4 Definitions of antibiotic subtances.

(a) * * *

(60) *Cefotiam.* Cefotiam is an antibiotic substance having the chemical structure described by the following name: 7-[*R*)-[2-(2-amino-4-thiazol)acetamido]-3-[[[1-(2-dimethylamino)ethyl]-1*H*-tetrazol-5-yl] thio] methyl]-3-cephem-4-carboxylic acid.

3. Section 430.5 is amended by adding new paragraphs (a)(94) and (b)(96) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(94) *Cefotiam.* The term "cefotiam master standard" means a specific lot of cefotiam that is designed by the Commissioner as the standard of comparison in determining the potency of the cefotiam working standard.

(b) * * *

(96) *Cefotiam.* The term "cefotiam working standard" means a specific lot of a homogenous preparation of cefotiam.

4. Section 430.6 is amended by adding new paragraph (b)(96) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(96) *Cefotiam.* The term "microgram" applied to cefotiam means the cefotiam (potency) contained in 1.144 micrograms of the cefotiam master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

5. The authority citation for 21 CFR Part 436 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

6. Section 436.357 is amended by revising the section heading and the first

sentence in paragraph (c)(2) to read as follows:

§ 436.357 Atomic absorption test for sodium carbonate content.

* * * * *

(c) * * *

(2) * * * Dilute the stock sample solution, prepared as directed in the monograph for the drug being tested, with distilled water to obtain a solution containing 5.5 micrograms of sodium per milliliter (estimated). * * *

* * * * *

PART 442—CEPHA ANTIBIOTIC DRUGS

7. The authority citation for 21 CFR Part 442 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

8. Section 442.58a is added to Subpart A to read as follows:

§ 442.58a Sterile cefotiam dihydrochloride.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefotiam dihydrochloride is 5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid, 7-[[(2-amino-4-thiazolyl)acetyl]-amino-3[[[1-[2-(dimethylamino)ethyl]-1*H*-tetrazol-5-y1]-thio]methyl]-8-oxo-, dihydrochloride, (6*R*-trans)-. It is so purified and dried that:

(i) Its potency is not less than 790 and not more than 925 micrograms of cefotiam per milligram on an anhydrous basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 7.0 percent.

(v) It passes the identity test.

(vi) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, moisture, identity, and crystallinity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(B) For sterility testing: One package containing approximately 6 grams of a composite sample.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 254 nanometers, a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silicas, a flow rate not to exceed 2.0 milliliters per minute, and a known injection volume of between 10 and 20 microliters. Mobile phase, working standard and sample solutions, resolution test solution, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Dissolve 13.1 grams of ammonium sulfate in 850 milliliters of water. Adjust the pH to 6.5 with dilute aqueous ammonia. Add 150 milliliters of acetonitrile. Filter through a suitable filter capable of removing particulate matter to 0.5 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph.

(ii) *Preparation of working standard, sample, and resolution test solutions*—(A) *Working standard solution.* Dissolve approximately 100 milligrams of the cefotiam working standard, accurately weighed, in water and dilute to 100 milliliters. Further dilute with mobile phase to obtain a solution containing 50 micrograms of cefotiam activity per milliliter.

(B) *Sample solution.* Dissolve approximately 100 milligrams of the sample, accurately weighed, in water and dilute to 100 milliliters. Further dilute with mobile phase to obtain a solution containing 50 micrograms of cefotiam activity per milliliter (estimated).

(C) *Resolution test solution.* Dissolve an accurately weighed portion of cefotiam working standard in water to obtain a solution containing approximately 1.0 milligram of cefotiam activity per milliliter. Heat this solution at 95 °C for 15 minutes. This procedure allows cefotiam lactone to be produced. Dilute 1.0 milliliter of this solution to 100 milliliters with mobile phase.

(iii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (T) for the cefotiam peak is satisfactory if it is not more than 1.76 at 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (n) is satisfactory if it is greater than 1985 theoretical plates for the cefotiam peak.

(C) *Resolution factor.* The resolution factor (R) between the peak for cefotiam and the peak for cefotiam lactone (generated in situ) is satisfactory if it is not less than 4.0.

(D) *Coefficient of variation.* The coefficient of variation (S_R in percent) of 5 replicate injections is satisfactory if it is not more than 1.0 percent. If the system suitability parameters have been met, then proceed as described in § 436.216(b) of this chapter.

(iv) *Calculations.* Calculate the micrograms of cefotiam per milligram of sample as follows:

$$\text{Micrograms of cefotiam per milligram} = \frac{A_u X P_s X 100}{A_s X C_u X (100 - m)}$$

where:

A_u = Area of the cefotiam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the cefotiam peak in the chromatogram of the cefotiam working standard;

P_s = Cefotiam activity in the cefotiam working standard solution in micrograms per milliliter;

C_u = Milligrams of the sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(g) of this chapter, using a solution containing 40 milligrams per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the sample preparation described in paragraph (d)(4) of that section and the titration procedure described in paragraph (e)(3) of that section, except:

(i) In lieu of 3 milliliters of anhydrous methanol solution, inject 20 milliliters of a formamide:methanol solution (2:1) into the container and shake to dissolve the contents (prior to use in preparation of the formamide:methanol solution, dry 500 grams of formamide over 20 grams of anhydrous sodium sulfate for 24 hours);

(ii) Rinse the syringe, needle, and immediate container with two separate 5-milliliter portions of anhydrous methanol, in lieu of one 3-milliliter portion of anhydrous methanol; and

(iii) In paragraph (e)(3) of that section, add a sufficient volume of the formamide:methanol solution (2:1) to cover the electrodes in the dry titrating vessel, in lieu of 20 milliliters of solvent A before starting the titration.

(5) *Identity.* Using a solution containing 20 micrograms per milliliter of water and a suitable spectrophotometer, record the ultraviolet absorption spectrum from 220 to 310 nanometers. The spectrum compares qualitatively to that of the cefotiam working standard similarly tested.

(6) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

9. Section 442.258 is added to Subpart C to read as follows:

§ 442.258 Cefotiam dihydrochloride for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefotiam dehydrochloride for injection is a dry mixture of cefotiam dihydrochloride and sodium carbonate. Its cefotiam potency is satisfactory if each milligram of cefotiam dihydrochloride for injection contains not less than 790 micrograms and not more than 925 micrograms of cefotiam on an anhydrous basis, when corrected for sodium carbonate content. Its cefotiam content is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of cefotiam that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 6.0 percent. The pH of an aqueous solution containing 100 milligrams per milliliter is not less than 5.7 and not more than 7.2. The cefotiam dihydrochloride used conforms to the standards prescribed by § 442.58a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The cefotiam dihydrochloride used in making the batch for potency, moisture, identity, and crystallinity.

(B) The batch for cefotiam potency, cefotiam content, sterility, pyrogens, loss on drying, pH, and sodium carbonate content.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The cefotiam dihydrochloride used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Cefotiam potency and content.* Determine both micrograms of cefotiam per milligram of sample and milligrams of cefotiam per container. Proceed as directed in § 442.58a(b)(1), preparing the sample solutions and calculating the potency and content as follows:

(i) *Preparation of sample solutions.* Use separate containers for preparation of each sample solution as described in paragraphs (b)(1)(i) (A) and (B) of this section.

(A) *Cefotiam potency (micrograms of cefotiam per milligram).* Dissolve an accurately weighed sample with sufficient distilled water to obtain a solution containing approximately 1,000 micrograms of cefotiam per milliliter. Further dilute this solution with mobile phase to obtain a solution containing 50 micrograms of cefotiam activity per milliliter (estimated).

(B) *Cefotiam content (milligrams of cefotiam per vial).* Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the solution thus obtained with sufficient distilled water to obtain a solution containing 1,000 micrograms of cefotiam activity per milliliter (estimated). Further dilute this solution with mobile phase to obtain a solution containing 50 micrograms of cefotiam activity per milliliter (estimated).

(ii) *Calculations*—(A) *Cefotiam potency (micrograms per milligram).* Calculate the micrograms of cefotiam per milligram as follows:

$$\text{Micrograms of cefotiam per milligram} = \frac{A_u \times P_s \times 100}{A_s \times C_u \times (100 - L - S)}$$

where:

A^u = Area of the cefotiam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A^s = Area of the cefotiam peak in the chromatogram of the cefotiam working standard;

P^s = Cefotiam activity in the cefotiam working standard solution in micrograms per milliliter;

C^u = Milligrams of the sample per milliliter of sample solution;

L = Percent loss on drying (determined as directed in paragraph (b)(4) of this section); and

S = Percent sodium carbonate (determined as directed in paragraph (b)(6) of this section).

(B) *Cefotiam content (milligrams of cefotiam per vial).* Calculate the cefotiam content of the vial as follows:

$$\text{Milligrams of cefotiam per vial} = \frac{A_u \times P_s \times X^d}{A_s \times 1{,}000}$$

where:

A^u = Area of the cefotiam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A^s = Area of the cefotiam peak in the chromatogram of the cefotiam working standard;

P^s = Cefotiam activity in the cefotiam working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(g) of this chapter, using a solution containing 40 milligrams of cefotiam per milliliter.

(4) *Loss on drying.* Proceed as directed in § 436.200(a) of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(6) *Sodium carbonate content.* Proceed as directed in § 436.357 of this chapter.

Dated: May 3, 1989.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89-11561 Filed 5-12-89; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Fenbendazole Blocks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co., providing for safe and effective use in beef cattle of Safe-Guard® (fenbendazole) cold-press feedblock containing 20 percent natural protein, as an anthelmintic.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: John L. Olsen, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876, filed supplemental NADA 139-189 providing for use in beef cattle of Safe-Guard® cold-press medicated feedblock containing 20 percent natural protein

and 750 milligrams of fenbendazole per pound as an anthelmintic. The firm holds an existing approval under this NADA for use of a medicated feedblock containing molasses and the same concentration of fenbendazole. The conditions of use are the same with the exception of a restriction against use of the protein-containing block in dairy cattle of breeding age and the drug withdrawal requiremetns (11 days for the molasses-containing block and 16 days for the protein-containing block). The supplemental application is approved and § 520.905e is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.905e is amended by revising paragraphs (a) and (d)(3) to read as follows:

§ 520.905e Fenbendazole blocks.

(a) *Specifications.* (1) Each pound of molasses block contains 750 milligrams of fenbendazole.

(2) Each pound of protein block contains 750 milligrams of fenbendazole.

* * * * *

(d) * * *

(3) *Limitations.* Administer free choice of beef cattle on pasture that have become accustomed to nonmedicated block feeding during an adaptation period of 12 to 19 days. Molasses block: Cattle must not be slaughtered within 11 days following last treatment. Protein block: Cattle must not be slaughtered within 16 days following last treatment; do not use in dairy cattle of breeding age. Animals maintained under conditions of constant worm exposure may require retreatment within 6 to 8 weeks. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Dated: May 5, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 89–11559 Filed 5–12–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8252]

RIN: 1545–AJ81

Arbitrage Restrictions on Tax-Exempt Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to arbitrage restrictions on tax-exempt bonds. In addition, the text of the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**. Changes to the applicable law were made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. These regulations affect issuers of tax-exempt bonds and provide them with the guidance needed to comply with the law.

EFFECTIVE DATE: The temporary regulations generally are effective for private activity bonds issued after December 31, 1985, and for bonds other than private activity bonds issued after August 31, 1986.

FOR FURTHER INFORMATION CONTACT: George F. Delduke, (202) 566–4545 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in this regulation have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–1098. The estimated annual burden per respondent varies from 60 minutes to 120 minutes, depending on individual circumstances, with an estimated average of 90 minutes.

These estimates are an approximation of the average time expected to be necessary for the collections of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances. For further information concerning these collections of information, and where to submit comments on these collections of information, the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Issuance of Proposed Regulation and Submission to Small Business Administration

The rules contained in this document are also being issued as proposed regulations by the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the rules will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Background

This document amends the Income Tax Regulations (26 CFR Part 1) to provide temporary rules relating to arbitrage restrictions on tax-exempt bonds under sections 148 and 149(d) of the Internal Revenue Code of 1986. The temporary regulations reflect the addition to the Internal Revenue Code of sections 148 and 149(d) by section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602), amendments made by sections 1013, 4005(d), and 5053(b) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100–647), and the applicable effective date provisions

of sections 1311–1314 of the Tax Reform Act of 1986 (100 Stat. 2659).

Explanation of Provisions

I. Scope and Effective Date of Restrictions on Arbitrage

A. Section 148 in General

Section 103(a) of the Internal Revenue Code of 1986 provides generally that gross income does not include interest on any State or local bond. If a State or local bond is an arbitrage bond (within the meaning of section 148), interest on the bond is not excluded from gross income under section 103(a). See, section 103(b)(2). Section 148 was added to the Internal Revenue Code by section 1301 of the Tax Reform Act of 1986 (1986 Act) and amended by the Technical and Miscellaneous Revenue Act of 1988 (1988 Act).

The Federal income tax exemption of interest on State and local bonds enables State and local governments to borrow at lower interest rates than taxable issuers. This lower interest rate enables State and local governments to finance their governmental activities at significantly less cost. The lower interest rate also provides the potential to benefit from tax arbitrage by investing proceeds of the bonds in taxable investments. The principal purpose of section 148 is to eliminate significant arbitrage incentives to issue more bonds, to issue bonds earlier, and to leave bonds outstanding longer than necessary to carry out the governmental purpose of the tax-exempt issue. A secondary purpose of section 148 is to minimize the tax arbitrage benefit associated with investing proceeds of the bonds in taxable investments. Minimizing this tax benefit targets the tax benefits to the activities for which the tax exemption is provided.

The arbitrage restrictions applicable to State and local bonds formerly were contained in section 103(c) of the Internal Revenue Code of 1954 (1954 Code). Regulations under section 103(c) are contained in §§ 1.103–13, 1.103–14, 1.103–15, and 1.103–15AT.

The 1986 Act revised the arbitrage restrictions applicable to State and local bonds in response to a growing tendency to maximize arbitrage profits in connection with the issuance of such bonds. Bonds routinely were issued in larger amounts and earlier than necessary to satisfy actual financing needs. A large volume of so-called collapsible bonds were issued, the proceeds of which may never be used for a governmental purpose. A lack of accurate and detailed rules under prior law led to arbitrage abuses, particularly in connection with advance refundings. Section 148 and section 149(d) (relating to advance refundings) were enacted to prevent these and other abuses from recurring.

The most significant changes made by the 1986 Act are the following:

1. Under section 148(a), a bond that is part of an issue is an arbitrage bond if the issuer reasonably expects (at the time of issuance of the bond) to use any portion of the proceeds of the issue to acquire higher yielding investments or to replace funds that were used to acquire such investments unless a specific exception applies. In addition, a bond is treated as an arbitrage bond if the issuer at any time intentionally uses any portion of the proceeds of the issue in such manner.

2. Under section 148(b), the arbitrage restrictions apply to any annuity contract or investment-type property. In addition, under section 148(b) as amended by the 1988 Act, the arbitrage restrictions apply to tax-exempt bonds subject to the alternative minimum tax if acquired with proceeds of bonds issued after March 31, 1988 that are not subject to the alternative minimum tax.

3. Under section 148(c), the initial temporary period for proceeds to be used to make loans is subject to special limits. In addition, under section 149(f) as added by the 1988 Act, pooled financing bonds issued after October 21, 1988 are subject to additional restrictions, including a requirement that 95 percent or more of the lendable proceeds are reasonably expected to be loaned within 3 years.

4. Under section 148(d)(1), the amount of proceeds of the issue that may be invested in higher yielding investments as part of a reasonably required reserve or replacement fund generally is limited to 10 percent of the proceeds of the issue.

5. Under section 148(d)(2), the amount of proceeds from the sale of the issue that may be part of a reserve or replacement fund generally is limited to 10 percent of the proceeds of the issue.

6. Under section 148(d)(3), the restrictions on investing in higher yielding nonpurpose investments apply to all private activity bonds other than qualified 501(c)(3) bonds.

7. Under section 148(e), the minor portion that may be invested in higher yielding investments is limited to the lesser of 5 percent of the proceeds of the issue and $100,000.

8. Under section 148(f), the requirement that issuers rebate arbitrage profits on nonpurpose investments to the United States is extended to all bonds (other than qualified mortgage bonds and qualified veterans' mortgage bonds subject to the arbitrage rebate requirement of section 143(g)(3)). In addition, under section 148(f) as amended by the 1988 Act, qualified mortgage bonds issued after December 31, 1988 are subject to the arbitrage rebate requirement of section 148(f) rather than section 143(g)(3).

9. Under section 148(h), the yield on the issue is determined on the basis of the issue price to the public.

10. Under section 149(d), advance refundings are subject to several additional restrictions relating to arbitrage.

B. Temporary Regulations Under Section 148

Section 1.148–0T describes the scope and effective date of section 148 and the temporary regulations thereunder and includes a list of the subjects covered by the regulations.

Sections 1.148–1T through 1.148–8T provide rules relating to the arbitrage rebate requirement of section 148(f). A substantial portion of these rules are reserved and will be the subject of a future notice.

Section 1.148–9T provides that some of the new rules apply for purposes of section 148 generally. Except to the extent changed by the 1986 or 1988 Act or by § 1.148–9T, issuers should rely on the rules contained in §§ 1.103–13, 1.103–14, and 1.103–15 for purposes of determining compliance with the requirements of section 148 (other than section 148(f)).

Section 1.150–1T provides definitions and special rules relating to the tax exempt bond requirements in general.

C. Effective Dates

Section 148, as added by the 1986 Act, generally applies to bonds issued after August 15, 1986 (after August 31, 1986 if the bond is a governmental bond described in section 1312(c)(2) of the 1986 Act). In addition, the arbitrage rebate requirement of section 148(f) applies to any bond issued after December 31, 1985 if the bond is not a governmental bond described in section 1312(c)(2) of the 1986 Act (after 3 p.m. E.D.T., July 17, 1986 if the bond is a governmental pool bond described in sections 1312(c)(2) and 1314(d)(3)).

Sections 1.148–1T through 1.148–8T generally apply to any bond to which the arbitrage rebate requirement of section 148(f) applies. An exception is provided for issues retired on or before May 15, 1989, if the issuer in good faith determines and pays the final rebate (if any) no later than the later of May 15, 1989, and the date 60 days after the issue is retired. In the case of any issue to which the new rules apply, the final

rebate is considered timely paid if paid no later than January 16, 1990.

The Treasury Department and the Internal Revenue Service carefully considered whether the new rules should apply only to bonds issued after the date of publication, and whether issuers should be allowed to apply the rules in § 1.103–15AT of the temporary regulations for purposes of determining compliance with the requirements of section 148(f) in the case of bonds issued before such date. The determination was made, however, that general transitional relief was not necessary or appropriate for bonds still outstanding after the date of publication.

Section 148(f) requires issuers to rebate earnings in excess of the yield on the issue and any income earned on the excess as a condition of tax-exemption. The first rebate with respect to most of the bonds is not due until 1991 or 1992, and many of the bonds will remain outstanding a long time thereafter. Section 148(f), by itself, provides no guidance as to how the rebate is to be computed. In the absence of guidance, issuers could not determine whether they are complying with the requirements of section 148(f), and the Internal Revenue Service could not effectively administer the requirements.

Moreover, the rules in § 1.103–15AT were developed to implement the arbitrage rebate requirement of section 103(c)(6)(D) of the 1954 Code, which applied only to certain industrial development bonds (IDBs). Those rules were not intended to apply to other types of bonds and do not provide the necessary detail or special rules needed to accommodate other bonds. Furthermore, it is important to note that the rebate computation under § 1.103–15AT can be very complicated, that the results under those rules are often quite harsh, and that the results under the new rules are ordinarily more favorable for issuers.

Although general transitional relief was determined not to be necessary or appropriate, several special transition rules have been provided to protect issuers that reasonably may have relied on regulations promulgated under section 103(c) of the 1954 Code from any material adverse effect that might otherwise arise from such reliance. These transition rules are described below and generally apply to issues sold on or before May 15, 1989 and issued on or before June 14, 1989. Public comments are invited regarding any additional transitional rules that may be necessary or appropriate.

Issuers of certain IDBs to which the arbitrage rebate requirement of section 103(c)(6)(D) of the 1954 Code applies may elect to apply the new rules for purposes of determining compliance with the requirements of section 103(c)(6)(D). Absent this election, the rules in § 1.103–15AT will apply.

Section 1.148-9T generally applies to any bond sold after May 15, 1989, or issued after June 14, 1989.

II. Required Rebate to the United States

A. In General

Section 148(f) requires issuers of State and local bonds to rebate arbitrage profits from investing in nonpurpose investments as a condition of tax exemption. This requirement is intended to minimize the tax arbitrage benefit associated with investing proceeds of the bonds in taxable investments, and to provide the accuracy needed to prevent abuses that occurred under prior law from recurring.

B. Exceptions to Rebate Requirement

Congress recognized the potential complexity and administrative burdens associated with requiring arbitrage profits to be rebated and, accordingly, provided two exceptions to the requirement. One exception applies to governmental bonds issued by small issuers with general taxing powers. Under this exception, the rebate does not apply to many small towns, cities, counties, and school districts. The other exception provides a means by which any issuer can avoid the rebate requirement simply by issuing bonds no earlier than 6 months before the proceeds are to be spent.

The 6-month exception generally does not apply unless all the gross proceeds of the issue are spent for the governmental purpose of the issue no later than 6 months after the date of issue. The statute includes special rules relating to bona fide debt service funds, an additional 6-month period for certain bonds, and a safe harbor for tax and revenue anticipation bonds. Rules relating to the 6-month exception will be the subject of a future notice, but certain aspects of those rules can be described at this time.

First, special rules are necessary to enable issuers that do not issue bonds earlier than 6 months before the proceeds are needed to finance expenditures to qualify for the 6-month exception. For example, some bonds may not be marketable without a debt service reserve fund. The regulations will clarify that the 6-month exception is available to issuers of these bonds. Only the earnings attributable to the reserve fund will be subject to rebate if the issue otherwise qualifies. The regulations also will clarify that investment proceeds of an issue may be part of a bona fide debt service fund for purposes of the 6-month exception (and for purposes of the special rule that excludes amounts earned on certain such funds).

Second, special safe harbors are being considered that would encourage more issuers to rely on the 6-month exception. A special safe harbor might apply, for example, if substantially all, but not all, of the gross proceeds of the issue were spent within 6 months, and the delay in spending all the gross proceeds was due to unanticipated events over which the issuer had no control.

Public comments are invited regarding these and other special rules that may be necessary or appropriate to encourage greater reliance on the 6-month exception.

C. Temporary Regulations in General

A primary objective of the temporary regulations is to provide rules that minimize administrative burdens associated with the rebate requirement for those issues that remain subject to the requirement. The regulations provide specific guidance relating to the computation of the rebatable arbitrage, the yield on the issue, and other related matters.

The temporary regulations are lengthy because specific guidance is provided for many types of issues. Only a portion of the rules apply to a particular issue, and most of the more complicated rules apply only to noncustomary or more sophisticated transactions. The rules that apply to the large majority of issues are not difficult to understand or apply. Moreover, the specificity of the rules should significantly reduce administrative burdens by eliminating uncertainty and by facilitating the development of computer programs that can be used to determine the rebatable arbitrage without difficulty.

The basic method for computing the rebatable arbitrage involves future valuing the nonpurpose investment cash flows at an interest rate equal to the yield on the issue. As explained below, this method is accurate and very simple. For example, an issuer that invests all the bond proceeds in a widely held mutual fund can compute the rebatable arbitrage simply by future valuing the initial amount invested and the amount of each mutual fund share redemption that is spent for the governmental purpose of the issue.

States may organize similar funds to enhance investment opportunities of their local governments and reduce compliance costs through economies of scale. The regulations do not yet provide specific rules as to the treatment of

these funds. However, it is anticipated that in appropriate cases the State and local governments investing in the funds will be treated in the same manner as if they had invested in shares of a widely held fund. For example, amounts earned by the fund and used to pay reasonable costs incurred by the fund to purchase and account for the investments will not be treated as earnings of the fund investors. Only the dividends actually paid by the fund to the investors will be taken into account for purposes of computing the rebatable arbitrage.

Most of the rules for allocating proceeds of an issue to investments and expenditures are reserved. These rules will accommodate customary governmental accounting practices to the extent possible. For example, a general purpose governmental unit may normally commingle bond proceeds and other funds for investment purposes and allocate earnings to each source of funds on an arm's length basis (*i.e.*, in a manner similar to that of a widely held mutual fund). The regulations will provide that this method of accounting for the bond proceeds may be used for purposes of determining the rebatable arbitrage. In many cases, the allocation of the investment earnings may be reasonably accurate but not fully arm's length (*e.g.*, the investment fund may not be revalued or investment earnings may not be credited to each source of funds on a regular and accurate basis). It is anticipated that the regulations generally will not require issuers to change their normal accounting practices for purposes of determining the rebatable arbitrage. Simplified accounting rules, however, will not apply to any fund formed or availed of to distort the rebatable arbitrage (or to proceeds of bonds issued to advance refund another bond).

The rules for computing the yield on the issue are much more detailed than under prior law. The yield on the issue for arbitrage yield restriction purposes generally is determined on the basis of the issuer's reasonable expectations as of the date of issue regarding the actual yield on the issue. Prior to the 1986 Act, arbitrage yield restrictions typically applied only to advance refundings. Since these bonds pay interest at fixed interest rates, the use of the reasonably expected yield provided a workable (albeit an imperfect) standard. The scope of the arbitrage rebate requirement is much broader. The rebate affects every type of issue and applies to all the gross proceeds. Much more detailed and accurate rules are necessary.

Separate rules are provided for computing the yield on variable yield and fixed yield issues. A variable yield issue includes bonds the interest rates on which are determined by reference to future market rates. For purposes of computing the rebatable arbitrage, the yield on a variable yield issue changes each 5-year period during the term of the issue (or more often, if the issuer elects). Computing the yield separately for each five years is simpler, fairer, and more accurate than computing the yield on a cumulative basis at the end of each five years. Under this method, the rebatable arbitrage reflects the amount earned on each investment in excess of the interest cost on the issue during the 5-year period the investment is held. Since the interest rates on the issue and the investments are properly matched, the rebatable arbitrage from investing during a 5-year period will not change after the 5-year period because of subsequent changes in interest rates.

A transition rule allows issuers of variable yield issues sold on or before May 15, 1989, and issued on or before June 14, 1989, to elect to compute the yield over the term of the issue.

A fixed yield issue is an issue of bonds the interest rates on which are fixed and determinable as of the date of issue. The actual yield on a fixed yield issue may depend on whether bonds are retired early if the issue includes bonds with different interest rates. Interest on such an issue often will accrue at a rate that is lower in the earlier years and at a rate that is higher in the later years. These temporary regulations allow issuers to initially assume, for purposes of making installment payments, that the higher rates will be paid. The computation of the actual yield on the issue and the rebatable arbitrage, however, eventually take into account any early retirements. In most cases, the difference between the actual yield, determined with regard to early retirements, and the expected yield, determined without regard to such retirements, will be very small.

Computation of the actual yield generally is not difficult. In the case of smaller issues, however, the administrative burdens are comparatively larger and the importance of using the actual yield much less. A special rule, therefore, provides that the yield for certain small issues is the expected yield as of the date of issue (determined without regard to early retirements) unless the issuer elects to use the actual yield. Public comments are invited regarding other special rules that may be necessary or appropriate to minimize administrative burdens.

A transition rule generally allows issuers of fixed yield issues sold on or before May 15, 1989 and issued on or before June 14, 1989 to compute the rebatable arbitrage by using the expected yield on the issue as of the date of issue (determined without regard to early retirements) unless the issuer elects to use the actual yield.

III. Rebate Requirement in General

A. General Rule

Section 1.148–1T provides generally that a bond is treated as an arbitrage bond if the bond is issued as part of an issue that does not meet the rebate requirement.

An issue generally meets the rebate requirement if the issuer pays to the United States: (1) At least 90 percent of the rebatable arbitrage as of each installment computation date (rebate installments); and (2) all the rebatable arbitrage as of the final computation date and any income attributable to such rebatable arbitrage (final rebate).

Since a refunding issue continues or replaces the refunded issue, a refunding issue meets the rebate requirement only if each tax-exempt refunded issue also meets any applicable rebate requirement. A tax-exempt issue includes any issue that (when issued) purported to be a tax-exempt issue. A refunding issue includes the nonrefunding portion of the refunding issue, and a refunded issue includes the nonrefunded portion of the refunded issue.

B. Computation and Payment Dates

The rebatable arbitrage is computed as of each installment computation date and as of the final computation date. The first installment computation date is the last day of the fifth bond year. The issuer may select as the last day of each bond year any calendar day that is the last day of a compounding interval used in computing the yield on the issue. Each succeeding installment computation date ends 5 years after the preceding installment computation date. The final computation date is the date the last bond is discharged. The issuer need not actually compute the rebatable arbitrage as of a computation date if there is none.

Rebate installments are due 60 days after each installment computation date. The final rebate is due on the latest of: (1) the date 60 days after the final computation date; (2) the date 8 months after the date of issue; (3) the earlier of the date the issuer no longer reasonably expects the 6-month temporary investment exception to apply, and the date 14 months after the date of issue;

and (4) January 16, 1990. Special rules for a series of issues are reserved.

C. Income Included in Final Rebate

The final rebate includes income attributable to the rebatable arbitrage during the final payment period. The final payment period begins on the final computation date and ends 15 days before the final rebate is paid.

An issuer may identify the funds that are to be used to pay the final rebate and rebate income on the basis of the amount actually earned. Otherwise, the income is determined on the basis of the amount that would have been earned if the rebatable arbitrage had been invested at the maximum interest rate in effect on the final computation date for a time deposit security of the State and Local Government Series (SLG) with a term equal to the final payment period. This rate is one-eighth percent less than the United States Treasury borrowing rate for a security with a comparable maturity. If the final rebate is paid no later than January 16, 1990, the applicable rate will not exceed the average of the maximum interest rates in effect on the first business day of each month during the final payment period for a SLG with a term of 60 days.

D. De Minimis Rules

There are three *de minimis* rules. First, the amount of each rebate installment and the final rebate may be rounded down to the nearest multiple of $100. Any amount less than $100 is rounded to zero.

Second, no income is included in the final rebate if the income is less than $300, and the final rebate is paid no later than 60 days after the final computation date. In addition, if the final rebate is paid no later than January 16, 1990, no income is included if the income is less than $1,000.

Third, as described below, the rebatable arbitrage is reduced by a computation date credit. The maximum credit on each computation date is $1,000.

E. Certain Failures Not To Result in Loss of Tax Exemption

Issuers may correct innocent failures (without penalty) if the failure is corrected no later than 60 days after the failure is discovered (180 days if the correction amount is less than $50,000). The Commissioner may extend the time to correct an innocent failure if the correction amount is less than $50,000, or if the issuer requests an extension before the expiration of such time.

A failure is corrected by paying the correction amount. This is the amount not paid when required, together with interest for the period of delay at the maximum interest rate for a SLG with a term equal to such period. In the case of a failure to pay a rebate installment, the interest is computed at a rate no less than the yield on the issue.

If the correction amount is $50,000 or more, a failure is not treated as innocent unless the issuer submits with the correction amount a brief explanation of the failure and basis for concluding that it is innocent. The failure is treated as innocent if the brief description is reasonably accurate (or not required) unless the issuer is notified otherwise within 90 days. It is anticipated that the vast majority of errors can be corrected under this rule.

Issuers may obtain relief from other failures by submitting a request to the Commissioner. Relief is available if the Commissioner determines that the failure is not due to willful neglect, and the issuer pays the correction amount and a penalty. The Commissioner may waive all or any portion of the penalty.

F. Recovery of Overpayments

Rebate payments are not refundable. However, it is anticipated that the regulations will provide that issuers generally may recover overpayments if the issuer establishes to the satisfaction of the Commissioner that: (1) The issuer paid an amount in excess of the rebatable arbitrage determined as of the day before the date of payment (and in certain cases as of the computation date immediately preceding such date); (2) the excess was paid as the result of a mistake (*e.g.*, a mathematical error); and (3) recovery of the overpayment on the date the recovery was first requested would result in no rebatable arbitrage as of such date.

IV. Computation of Rebatable Arbitrage

A. In General

Section 148(f) provides generally that the rebatable arbitrage is the sum of: (1) The excess of (i) the amount earned on nonpurpose investments (other than investments that are attributable to the excess described in this clause (1)), over (ii) the amount that would have been earned on such investments if the yield on such investments was equal to the yield on the issue; and (2) any income attributable to the excess described in clause (1).

The temporary regulations provide a simple and accurate method for computing this sum that does not rely on more complicated and less accurate federal income tax accounting principles. This method involves future valuing the nonpurpose investment cash flows at an interest rate equal to the yield on the issue.

B. Future Value Method

Section 1.148–2T provides generally that the rebatable arbitrage as of a computation date is the excess of: (1) The future value of the nonpurpose receipts (the amounts received from investing in nonpurpose investments); over (2) the future value of the nonpurpose payments (the amounts paid to purchase nonpurpose investments). All future values are computed as of the computation date and by using an interest rate equal to the yield on the issue.

Computation of the rebatable arbitrage under the future value method is very simple, because the computation focuses exclusively on cash flows. Investments attributable to an excess do not have to be separately accounted for to compute the income earned from reinvesting the excess. The amount actually earned is automatically taken into account if the excess is reinvested. If the excess is spent, the issuer's tax-exempt borrowing rate is used as the excess earnings rate. An issuer with a negative excess benefits from the full time value of the negative excess if a positive excess arises in a later year.

The focus on cash flows also eliminates the need to make separate computations with respect to nonpurpose investments that are not held on a computation date. In many cases, the issuer can compute the rebatable arbitrage simply by keeping track of the initial amount that is invested and each amount that is spent.

To illustrate, assume a $100 issue with a 10 percent annual yield. On the date of issue, the $100 is invested in a zero coupon investment that matures at the end of Year 4. The amount the issuer would receive at the end of Year 4 if the $100 was invested at the bond yield is the future value of $100 at the end of Year 4, determined by using an interest rate equal to 10 percent ($146.41).

Example (1). Assume the issuer actually receives $156.41 when the investment matures at the end of Year 4 (a $10 excess) and reinvests the entire amount (the $10 excess and the $146.41 nonexcess) in a 1-year zero coupon investment with a 10 percent yield, which matures at the end of Year 5. The issuer receives $172.05 at the end of Year 5 ($156.41 plus $156.41×10%). Since the $146.41 nonexcess is invested at the bond yield, no new positive or negative excess arises from this reinvestment. The amount earned at the end of Year 5 from reinvesting the $10 excess is $1 ($10×10%). The rebatable arbitrage at

the end of Year 5 is $11 (the sum of the $10 excess and $1 earned from reinvesting the $10 excess).

Under the future value method, the rebatable arbitrage would be computed as follows:

Year	Receipt (payment)	FV (end of year 5)
0	$(100.00)	$(161.05)
4	156.41	172.05
4	(156.41)	(172.05)
5	172.05	172.05
Rebatable arbitrage		11.00

Note that the two cash flows in Year 4 (the $156.41 receipt and reinvestment) can be disregarded since they cancel each other out.

The ability to disregard reinvestments makes the computation much simpler. For example, assume the issuer had invested the $100 in a series of many different investments during the first 5 years (rather than only two). Regardless of the number of receipts and payments generated by the additional reinvestments, the issuer could still compute the rebatable arbitrage by future valuing only two cash flows (the initial payment in Year 0 and the final receipt in Year 5). All the other receipts and payments cancel each other out. See, § 1.148–2T(c)(2) (Examples).

Example (2). (i) Assume the issuer received $179.87 at the end of Year 5 (instead of $172.05, which is $7.82 less). The rebatable arbitrage at the end of Year 5 is $7.82 more:

Year	Receipt (payment)	FV (end of year 5)
0	$(100.00)	$(161.05)
5	179.87	179.87
Rebatable arbitrage		18.82

The $18.82 reflects the Year 4 $10 excess, $1.50 earned from reinvesting the $10 excess during Year 5, and a new $7.32 excess from reinvesting the $146.41 nonexcess at a 5 percent higher yield during Year 5 ($146.41×5%).

(ii) Assume the issuer received $164.23 at the end of Year 5 (instead of $172.05, which is $7.82 more). The rebatable arbitrage at the end of Year 5 is $7.82 less:

Year	Receipt (payment)	FV (end of year 5)
0	$(100.00)	$(161.05)
5	164.23	164.23
Rebatable arbitrage		3.18

The $3.18 reflects the Year 4 $10 excess, $.50 earned from reinvesting the $10 excess during Year 5, and a new $7.32 negative excess from reinvesting the Year 4 $146.41 nonexcess at a 5 percent lower yield during Year 5 ($146.41×5%).

Example (3). Assume the issuer spent the $146.41 nonexcess at the end of Year 4 and reinvested only the $10 excess. The yield on the 1-year reinvestment is 5 percent; the issuer therefore receives $10.50 at the end of Year 5. The rebatable arbitrage at the end of Year 5 is computed as follows:

Year	Receipt (payment)	FV (end of year 5)
0	$(100.00)	$(161.05)
4	146.41	161.05
5	10.50	10.50
Rebatable arbitrage		10.50

The $10.50 reflects the Year 4 $10 excess and $.50 earned from reinvesting the $10 excess during Year 5. The net receipt at the end of Year 4 is the amount that was spent (*i.e.*, the portion of the $156.41 receipt that was not reinvested).

Example (4). Assume the issuer spent the entire $156.41 at the end of Year 4. The rebatable arbitrage at the end of Year 5 is computed as follows:

Year	Receipt (payment)	FV (end of year 5)
0	$(100.00)	$(161.05)
4	156.41	172.05
Rebatable arbitrage		11.00

The $11.00 reflects the Year 4 $10 excess and $1 earned on the $10 excess during Year 5. Since the $10 excess was not reinvested, the issuer's tax-exempt borrowing rate is used to determine what was earned by spending the excess. The receipt at the end of Year 4 is the amount that was spent.

C. Nonpurpose Payments and Receipts

If a nonpurpose investment is purchased with gross proceeds, the amount paid to purchase the investment is the nonpurpose payment. A nonpurpose receipt includes any amount received from investing in nonpurpose investments (including amounts received from the sale of investments). Gain or loss, therefore, is taken into account in computing the rebatable arbitrage.

In addition to these actual amounts, the following amounts are treated as nonpurpose payments and receipts:

1. *Constructive payments and receipts.* If a nonpurpose investment is not actually purchased with gross proceeds, the investment is treated as if purchased for fair market value when it is allocated to gross proceeds (*e.g.*, investments purchased before the date of issue and contributed to a debt service reserve fund are treated as if purchased for fair market value on the date of issue). Similarly, if a nonpurpose investment ceases to be a nonpurpose investment but is not actually sold, the investment is treated as if sold for fair market value (*e.g.*, all nonpurpose investments are treated as if sold for fair market value on the final computation date).

Under these rules, market gain or loss for the period during which an investment is allocated to an issue is the same whether or not the investment is purchased (or sold) at the time it is (or ceases to be) allocated to the issue. In addition, the yield on each investment is based on market interest rates in effect at the time the investment is allocated to the issue whether or not the investment is actually purchased at that time.

Fair market value generally is the price at which a willing buyer would purchase the investment from a willing seller. Specific rules are provided for determining the fair market value of investments traded in an established securities market. Special rules are provided for valuing SLGs that are not in a restricted escrow and certain investment contracts.

2. *Installment date receipt.* For purposes of computing the rebatable arbitrage as of an installment computation date, the fair market value of any nonpurpose investments held on that date is treated as a nonpurpose receipt. Fair market value is generally easy to determine, and the use of fair market value allows net unrealized losses to be counted.

In the case of fixed rate investments, the issuer has the option on any installment computation date to value the investments at present value. Valuing the investments at present value eliminates net unrealized gains from the installment date computation. The present value generally is the present value of the future receipts to be paid on the investment, discounted at the yield on the investment. If the investment is purchased at par, the par amount plus accrued interest can be used (instead of the par amount plus the present value of such interest).

3. *Rebate payment.* Payments of rebatable arbitrage to the United States no later than the date due are treated as nonpurpose payments. These payments, therefore, reduce the rebatable arbitrage. Any amount not paid on or before the date due is treated as a

nonpurpose payment as of the due date. The failure to timely pay is corrected by paying the correction amount as described above.

4. *Computation date credit.* A computation date credit generally is taken into account as a nonpurpose payment on each computation date. The credit on each computation date is $1,000 if the outstanding amount of bonds is more than $5 million, $625 if the outstanding amount of bonds is more than $1 million but not more than $5 million, and $250 if the outstanding amount of bonds is $1 million or less. No credit is allowed on a computation date if the computation period is less than one year, or if less than 75 percent of the net sale proceeds have been spent for a governmental purpose by that date.

In the case of a refunding issue, the net sale proceeds requirement is applied separately to each refunding portion and to the nonrefunding portion of the issue. In the case of each refunding portion, the requirement is applied by reference to the use of the sale proceeds of the refunded issue (or in the case of a series of refundings, by reference to the use of the sale proceeds of the original issue). Thus, refunding issues (including advance refundings) are eligible for the credit if all the refunded issues were eligible for the credit (and any new money portion of the refunding issue also qualifies). In addition, a refunding issue can qualify for the credit on a computation date (even if the refunded issue was not eligible) if the 75 percent expenditure requirement is later met.

5. *Imputed receipt.* Imputed receipts are treated as nonpurpose receipts. Section 1.148–5T will contain rules relating to the transactions that give rise to such receipts and the method of determining the amount thereof.

Receipts generally will be imputed to obligations that do not bear interest at an arm's length interest rate. Section 1.148–5T provides two exceptions that apply to investments of gross proceeds in demand accounts that are used to hold funds for a short period of time until the funds can be invested at an arm's length interest rate or spent. The exceptions do not apply to reserve or replacement funds (other than bona fide debt service funds), to proceeds subject to arbitrage yield restrictions, or to accounts formed or availed of to take advantage of the exception and deflect arbitrage profits to third parties. The purpose of the exceptions is to further simplify computation of the rebatable arbitrage under the future value method.

Under the first exception, no receipt is imputed to investments of small balances in a nonpurpose receipt account. This rule facilitates the netting of nonpurpose receipts and payments. The investment activity in the nonpurpose receipt account can be disregarded for purposes of computing the rebatable arbitrage, since all the receipts in the account are reinvested. The investments in the account, however, are taken into account in determining the amount of the rebatable arbitrage (*e.g.*, as zero yielding investments if the account does not pay interest).

Under the second exception, receipts are not imputed to investments of significantly larger balances in a nonpurpose receipt account, a purpose receipt account, or a checking account to produce a yield higher than the yield on the issue. This rule also simplifies the computation. For example, the rule allows an issuer to treat amounts deposited in a qualified checking account as if they were spent on the date of the deposit.

D. Special Rules for Restricted Escrows

Special rules apply to investments in restricted escrows. An investment is in a restricted escrow if the investment is in an advance refunding escrow or an excess proceeds escrow. These rules are necessary primarily to accommodate advance refundings. The rules reflect the economic reality that all investments in a restricted escrow (whether or not held concurrently) are part of a single "locked in" investment.

Nonpurpose investments are in an advance refunding escrow if allocated (without regard to transferred proceeds rules) to proceeds of a refunding issue that are to be used to discharge principal or interest on a refunded issue or that are part of a reserve or replacement fund (until the adjusted maturity date of the refunded issue) unless the proceeds qualify for a temporary period longer than 30 days.

Nonpurpose investments (not in an advance refunding escrow or part of a reasonably required reserve or replacement fund) are in an excess proceeds escrow if allocated (without regard to transferred proceeds rules) to proceeds that are to be used to discharge principal or interest (other than accrued or capitalized interest) on the issue to which the proceeds are allocated. Amounts to be used to pay debt service are not part of a reasonably required reserve or replacement fund unless the purpose of the fund is to cover a temporary shortfall in revenues (or the fund is a bona fide debt service fund). For example, an escrow fund established to defease bonds (legally or economically) is not reasonably required.

The special rules that apply to investments in restricted escrows are as follows:

1. *Installment date receipt.* The installment date receipt is always determined by reference to present value.

2. *Transferred investments.* If the investments transfer to a refunding issue, the present value is always treated as the nonpurpose receipt with respect to the refunded issue and as the nonpurpose payment with respect to the refunding issue. (This rule generally does not apply if the refunded issue is a tax-exempt issue to which the rebate requirement applies unless the refunding issue also is tax-exempt.)

3. *Composite yield.* The present value is determined by treating all investments in the same restricted escrow as one investment (whether or not the investments are held concurrently). Therefore, the discount rate used in computing the present value of the investments is the composite yield on all the investments (not the yield on the investments that happen to be in the escrow on a particular date).

4. *Imputed escrow receipts.* Section 1.148–5 provides that receipts are imputed to investments in an escrow in certain cases. For purposes of these rules, investments in an escrow include tax-exempt investments and investments allocated to gross proceeds (other than proceeds).

The first rule provides that interest savings directly attributable to the defeasance of bonds with investments in an escrow are treated as imputed receipts with respect to those investments. These savings might occur if, as a result of the defeasance, the interest rate on the defeased bonds is reduced, or fees for a guarantee of the defeased bonds no longer have to be paid. A transition rule applies to bonds sold on or before May 15, 1989, and issued on or before June 14, 1989. The transition rule does not apply to any refunding issue issued after August 31, 1986 and to which section 149(d)(4) (relating to abusive advance refunding transactions) applies unless certain interest savings are taken into account in computing the yield on the refunding issue.

The second rule provides that excess receipts from tax-exempt investments in an escrow established after June 14, 1989, are treated as imputed receipts with respect to nonpurpose investments in the same escrow. Excess receipts may arise if the tax-exempt investments are invested at a yield higher than one eighth percent above the yield on the nonpurpose investments in the same

escrow. The excess receipts are the receipts on the tax-exempt investments that produce this excess yield.

E. Certain Lower Yielding Investments Not Taken Into Account

Two classes of nonpurpose investments are not taken into account in computing the rebatable arbitrage if the yield on the class as a whole is lower than the yield on the issue. The first class comprises all investments (including transferred investments) in advance refunding escrows and all transferred investments in excess proceeds escrows. The second class comprises all investments allocated to gross proceeds (other than proceeds) that are part of a reserve or replacement fund that is neither reasonably required nor a bona fide debt service fund.

Congress provided the Treasury Department with broad general regulatory authority under section 148 and section 149(d) (relating to advance refundings) and specific authority under section 148(f)(6)(B) to determine what gross proceeds include. The netting limitations herein constitute a necessary exercise of such authority. The limitations are necessary because a tax-exempt issuer enjoys a tax arbitrage benefit whenever the bond proceeds are invested (unless the bond proceeds are invested exclusively in tax-exempt investments). This benefit is equal to the interest rate differential between the tax-exempt issue and a comparable taxable issue.

The two classes of funds to which the netting limitations apply are long-term investment funds that involve major exploitation of arbitrage. These funds rarely, if ever, exist outside the tax-exempt bond market. The netting limitations prevent these funds from being used to exploit arbitrage twice. The double exploitation would occur if the funds were invested at taxable interest rates and also were used to eliminate rebatable arbitrage profits from investing other, unrelated funds at taxable interest rates. The advance refunding escrow limitation prevents advance refunding issues from enjoying a rebate advantage as compared to the refunded and all other issues. The sinking fund limitation prevents sinking funds from being established and unreasonably accumulated for the primary (if not sole) purpose of eliminating rebatable arbitrage profits. These limitations do not prevent negative arbitrage profits from the investment of other, unrelated funds from being used to offset positive arbitrage profits from the investment of these funds.

V. Computation of Yield on Issue

A. In General

Section 1.148–3T distinguishes between fixed yield issues and variable yield issues. A fixed yield issue includes only fixed yield bonds. A variable yield issue includes one or more variable yield bonds.

A variable yield bond includes any bond the interest rate on which is determined by reference to market interest rates after the date of issue. A bond is not a variable yield bond merely because the interest rate will change (*e.g.*, to another interest rate fixed and determinable as of the date of issue) or may change in the event of an unanticipated event (*e.g.*, if there is a change in income tax rates).

The yield on a fixed yield issue is the same throughout the term of the issue. For purposes of computing the rebatable arbitrage as of each installment computation date, the expected actual yield on the issue as of the computation date is used to future value the nonpurpose receipts and payments from the date of issue to the computation date. On the final computation date, the actual yield on the issue over the term of the issue is used to future value the nonpurpose receipts and payments from the date of issue to the final computation date.

In contrast, the yield on a variable yield issue changes each yield period. For purposes of computing the rebatable arbitrage, the nonpurpose receipts and payments are future valued during each yield period at an interest rate equal to the yield on the issue computed separately for that yield period. Each yield period ends on a computation date (*e.g.*, the first yield period ends on the last day of the fifth bond year). The issuer may elect to treat the last day of any other bond year as the end of another yield period. The yield, therefore, may be computed for each 5-year period or more often (in any combination of 1-year periods).

Under the variable yield rules, the rebatable arbitrage reflects the amount earned on each investment in excess of the interest cost on the issue during the yield period the investment is held. Computation of the rebatable arbitrage on a yield period basis minimizes distortions from changes in market interest rates. For example, if the yield on an issue of long-term current index bonds was recomputed over the term of the issue, the rebatable arbitrage from investing during the construction period would change later if interest rates changed. The issuer could not recover rebate payments if interest rates rose (at least 90 percent must be paid each 5 years), but the issuer would have to rebate more if interest rates fell. The issuer should not have to rebate more, since the arbitrage profits do not in fact change.

The variable yield rules apply to tender bonds that bear interest at short-term rates during the construction period (when the proceeds are invested) and thereafter convert to a long-term fixed interest rate. As applied to these issues, the rules are also necessary to minimize distortions from comparing the current short-term investment rates and the future long-term borrowing rates. Although yield curve distortions can occur in connection with long-term fixed rate issues, there is a fundamental difference between a long-term fixed rate bond and a tender bond. The issuer of a long-term fixed rate bond agrees in advance to pay a fixed rate of interest over the term of the bond. As discussed below, the yield on such a bond should not be viewed as changing because market interest rates later change. By contrast, the yield on a tender bond changes whenever the interest rate on the bond is reset. Moreover, the conversion of a tender bond to a long-term fixed rate bond resembles the refunding of a short-term bond with a long-term bond. A refunding issue is a separate issue and involves a separate yield and rebatable arbitrage computation.

A transition rule provides that the issuer of any variable yield issue sold on or before May 15, 1989, and issued on or before June 14, 1989, may elect to treat the issue as a fixed yield issue. If the issuer so elects, the yield on the issue is computed over the term of the issue.

B. Issue Price

The yield on a bond or issue is determined on the basis of the issue price to the public. The issue price of substantially identical bonds that are publicly offered generally is the initial offering price at which price a substantial amount of the bonds was sold to the public. This price generally is determined on the basis of reasonable expectations as of the date the issuer enters into a binding contract to sell the bonds if the underwriter or other intermediary makes a bona fide public offering of the bonds at the reasonably expected price. The issue price of bonds to be sold after the date of issue must be adjusted to reflect an equivalent date of issue price (*e.g.*, interest accrued after the date of issue is not taken into account).

C. Actually Paid

Payments of principal and interest on a bond that are unconditionally payable generally are treated as if paid on the date actually and unconditionally due (whether or not actually paid on that date) unless the yield is higher by taking into account payments when actually paid (*i.e.*, where taking into account late payments and interest on the late payments produces a higher yield).

This special rule applies only if the bondholders are reasonably assured that sufficient funds will be available to fully retire the bonds if none or an insubstantial portion of the proceeds are used for a governmental purpose. For this purpose, the available funds are reduced by the arbitrage profits (determined without regard to the special rule), and funds are considered available only if there is a binding obligation of a person with sufficient funds to provide them. This exception is necessary to prevent arbitrage profits from being used to pay the issuance costs of collapsible bond issues.

D. Qualified Guarantees

Section 1.103–13(c)(8) provides that premiums paid to insure an issue are taken into account in computing the yield on the issue. Under § 1.103–13(c)(5), payments for other bond guarantees (*e.g.*, letters of credit) and for guarantees of purpose investments are taken into account in computing the yield on purpose investments, but not in computing the yield on the issue. The distinction under prior law between bond insurance and other bond guarantees is eliminated.

In some cases, the terms of a purpose investment may be virtually identical to the terms of the bonds, and the obligor on the purpose investment may even be treated for other tax purposes as the obligor on the bonds. In these cases, a guarantee of the purpose investment is treated as a guarantee of the bonds, rather than as a project-related credit enhancement feature of the bonds. This treatment applies if: (1) The purpose investment is acquired with sale proceeds of the issue; (2) the payments on the purpose investment are exclusively and unconditionally pledged to pay the bonds; (3) the payments on the purpose investment coincide with the payments on the bonds; and (4) the yield on the purpose investment does not exceed the yield on the issue by more than one-eighth percent. The last requirement may be satisfied by modifying the purpose investment to comply with the requirement if the purpose investment is acquired on or before June 14, 1989.

In addition, special rules are provided that permit purpose investment guarantees to be treated as bond guarantees in certain cases even though the payments on the purpose investment and the bonds do not exactly coincide, and even though the payments on the purpose investment are not exclusively pledged to pay the bonds. These rules: (1) Treat payments on a purpose investment and a bond as coinciding where the purpose investment provides for monthly payments of principal and interest and the bonds provide for semiannual or annual payments of principal and interest; and (2) treat payments on a purpose investment as exclusively pledged to pay the bonds where the bonds are equally and ratably secured with other bonds under a master resolution if all bonds issued under the master resolution are used only to finance purpose investments that are insured by the same guarantor (*e.g.*, by the Federal Government).

A guarantee is an unconditional obligation of a guarantor enforceable by or on behalf of the bondholder to pay principal or interest on the bond or the tender price of a tender bond. The guarantee may be in the form of an insurance policy, surety bond, irrevocable letter or line of credit, or standby purchase agreement. A line of credit obtained for liquidity reasons is not a guarantee unless the bondholders can unconditionally rely on it. A guarantee also may be in the form of a recourse loan to the guarantor (where the guarantor re-loans the proceeds to the ultimate borrower) if the terms of the loan and the bonds are virtually identical.

The guarantor must be the Federal Government or an entity that is subject to Federal income tax and is either a bank or rated "AA" or "AAA" by a nationally recognized rating agency. The guarantor must be legally entitled to full reimbursement immediately or upon commercially reasonable repayment terms (during a workout period that is not unreasonably long). An obligation to pay is not a guarantee unless it is reasonably expected that the guarantor will not be called upon to make any payment under the guarantee (or will be reimbursed immediately in cash for any payment). For example, a commitment to make a permanent loan is not a guarantee (whether or not the commitment is unconditional).

Payments for the guarantee may not exceed a reasonable charge for the transfer of credit risk and may not include direct or indirect payment for a cost, risk, or other element that is not customarily borne by guarantors of tax-exempt bonds (in transactions in which the guarantor has no other involvement). The reasonable charge requirement is not satisfied unless it is reasonably expected that the guarantee will result in a net present value savings. A nonguarantee element is present, for example, if the guarantee is in the form of a loan to the guarantor unless payments for all nonguarantee services being provided by the guarantor fully and adequately compensate the guarantor for those services (and no portion of such payments is taken into account as a payment for the guarantee). The fees charged for the nonguarantee services must be separately stated if the guarantee is entered into after June 14, 1989.

E. Allocation Rules for Guarantees

Rules are provided for allocating payments for guarantees to the bonds guaranteed and, if the bonds are variable yield bonds, to the proper yield period. In general, level payments are allocated in accordance with the level payment formula and treated as paid when actually paid. Nonlevel (front-loaded or back-loaded) payments are reallocated.

A level payment generally is one of a series of payments determined by use of the same formula (*e.g.*, a series of payments all of which are based on a constant percentage of the amount of guaranteed bonds then outstanding plus an appropriate amount of accrued interest). The series of payments must be payable at regular intervals (*e.g.*, on the first day of each bond year, properly adjusted to take into account any short year).

Nonlevel payments generally are allocated to each guaranteed bond in the same proportion as the interest savings resulting from the guarantee. For example, if the guaranteed bonds are not all substantially identical, the nonlevel payments are allocated to each group of substantially identical guaranteed bonds in the same proportion as the total interest savings with respect to the group bears to the total interest savings with respect to all the guaranteed bonds (determined on a present value basis). Payments allocated to substantially identical bonds are allocated ratably.

Nonlevel payments allocated to a variable yield bond generally are treated as paid on the first day the guarantee is in effect and on the first day of each succeeding bond year during which the guarantee is in effect. The same amount is treated as paid each bond year (other than a short year). The present value of all the

amounts treated as paid equals the present value of all the nonlevel payments, using a discount rate equal to the yield on all the guaranteed bonds during the first yield period during which the guarantee is in effect (determined without regard to the nonlevel payments). All guarantees entered into with the same guarantor before the first installment computation date generally are treated as one guarantee for purposes of applying these rules.

If a guaranteed variable yield bond is actually retired before maturity, the amount treated as paid during the bond year is prorated. No other amounts with respect to the bond are thereafter taken into account with respect to the issue.

F. Hedging Transactions

Certain hedging transactions, such as those involving interest rate swaps and interest rate caps or collars, should be taken into account in computing the yield on the issue. The rules relating to hedging transactions are reserved. Public comments are invited regarding the types of hedging transactions that should be taken into account, the methods that should be used to determine whether a particular hedging transaction is entered into with respect to a particular issue, and the method that should be used to take into account payments with respect to each type of transaction. Issuers should be aware that the regulations will apply to interest rate swaps that involve the swap of a fixed rate of interest for a variable rate of interest, and that these swaps may be taken into account in determining whether the issue is a variable yield issue.

VI. Computation of Yield on Fixed Yield Issue

A. In General

The yield on a fixed yield issue as of any computation date is determined by taking into account the issue payments paid on or before the computation date and to be paid after the computation date. The issue payments paid are the amounts paid to discharge principal and interest (not including amounts paid in connection with the early retirement of a bond), the early retirement value of bonds retired before maturity, and the amounts paid for a qualified guarantee. The issue payments to be paid after the computation date generally are determined by assuming that the bonds will remain outstanding until maturity (unless the bonds are subject to mandatory early redemption or otherwise are required to be retired early).

B. Early Retirements

The early retirement value of a bond (rather than the amount actually paid to retire the bond) is treated as the issue payment when a bond is retired before the final maturity date. The early retirement value generally is the price that when used in computing the actual bond yield (the yield to the actual retirement date) produces the original bond yield (the yield to the final maturity date).

The price that preserves the original bond yield is the present value as of the early retirement date of the originally scheduled payments of principal and interest (and payments for a guarantee) to be paid on or after that date, discounted at an interest rate equal to the yield-to-maturity on the bond. The present value of a bond issued at par plus accrued interest is approximately the par amount of the bond plus accrued interest (if the bond pays current interest). This approximate present value can be used instead of actually computing the exact present value. The exact present value may have to be computed for guaranteed bonds and bonds that are issued at a discount (or premium). The present value of these bonds increases (or decreases) as the discount (or premium) accrues, so that the actual yield on the bond is always the same.

The actual price paid to retire the bond is not used, because changes in market interest rates should not be viewed as changing the yield on a fixed yield bond. Economically, the yield over the original term of a noncallable fixed yield bond never changes. If the issuer retires the bond early, the market premium (or discount) paid to retire the bond will reflect the lower (or higher) current market interest rate, which is the same rate at which the early retirement is financed. Financing of the early retirement with a new borrowing will change the timing of the originally scheduled payments, but will not change the present value of the payments or the yield over the original term of the bond. Financing of the early retirement with equity also produces the same results on a present value basis (*i.e.*, the same result as if the equity had been invested at the current market rate and the bond had not been retired, and the same result as if the bond had been retired with new borrowing at the current market rate).

Similarly, the yield over the original term of a callable bond should not be viewed as increasing if the bond is retired early. In this case, the yield with respect to the financing over the original term of the bond may actually decrease. For example, the yield over the original term of a 9 percent 30-year bond would decrease if the bond was called after 10 years at a 3 percent call premium to take advantage of a lower 6 percent interest rate. The higher original bond yield is used for purposes of computing the rebatable arbitrage whether or not the bond is called early (*i.e.*, the yield is not reduced to take into account the value of the call option or the fact that it is exercised).

Issuers should be aware, however, that the issuance of callable bonds for the primary or sole purpose of hedging against a rise in interest rates may violate, *inter alia*, the 10-percent reserve or replacement fund financing limitation added by the 1986 Act. See, H. Rep. No. 100–795, 100th Cong. 447, 451 (1988). Rules relating to this limitation will be the subject of a future notice.

A bond may be subject to optional purchase or redemption at a small discount below present value. For example, a 30-year bond issued at a one percent premium may be subject to optional redemption at par after 20 years. In this case, it is initially assumed that the yield on the bond is the higher yield-to-maturity rather than the lower yield to the par call date. If the bond is part of a fixed yield issue and is retired at or about the time the bond is subject to redemption at a price less than present value, the lower redemption price is the early retirement value (rather than the higher present value).

In extraordinary cases, a bond may be subject to optional purchase or redemption before maturity at a substantial discount below present value. In this case, it is initially assumed that the yield on the bond is the yield-to-call (*i.e.*, the yield computed by treating the optional purchase or call date as the final maturity date). A bond that is part of a fixed yield issue is a yield-to-call bond if the yield-to-maturity on the bond is more than one- fourth percent higher than the lowest yield. If the bond is not retired on or before the call date, the bond is treated as if issued on that date for an issue price equal to the lower call price. The bond, therefore, is treated as a lower yielding bond before the call date and as a higher yielding bond after the call date (assuming the bond is still outstanding after the call date). A yield-to-call bond does not cause the issue of which the bond is a part to be treated as a variable yield issue.

In some cases, bonds may be subject to mandatory sinking fund redemption before the final maturity date. If these bonds are issued at a discount, the present value of the bonds on the mandatory early redemption dates

would be less than par if the yield-to-maturity were used as the discount rate in computing the present value. If the bonds are not issued at a large discount, the issuer expects to redeem the bonds at par (rather than at a lower market price), and the yield on each bond is actually the composite yield-to-maturity on all the bonds, determined by treating the mandatory early redemption dates and prices as the final maturity dates and prices. This higher composite yield is used as the discount rate in computing the present value of each bond when it is retired (and each bond is treated as maturing on a mandatory redemption date for purposes of computing the present value). The actual yield on the bonds, therefore, is always the composite yield-to-maturity on all the bonds (regardless of when or at what price the bonds are retired). The lower yield-to-maturity is used for purposes of determining the issue payments to be paid if the bonds are issued at a deep discount.

A single loan that provides for partial principal payments before the final principal payment is due is treated as a series of separate bonds that are subject to mandatory early redemption. The yield on the loan is always the composite yield-to-maturity on all the bonds.

C. Special Rule for Small Issues

Unless the issuer otherwise elects, the yield on certain small fixed yield issues is the expected actual yield as of the date of issue. This yield is computed in the same manner as the actual yield, except that the date of issue is treated as the only computation date. Thus, actual facts after the date of issue (including early retirements) are not taken into account.

For this purpose, an issue is a small issue if the aggregate issue price of the bonds is $5 million or less. This amount is increased to $10 million for governmental issues if the aggregate issue price of all tax-exempt bonds (other than private activity bonds) issued by the issuer and certain related issuers during the same and the immediately preceding calendar years is $30 million or less.

The special rule applies only if: (1) It is reasonably expected that no investments (other than purpose investments) will be subject to arbitrage yield restrictions; (2) the issuer at no time enters into a hedging transaction that is taken into account in computing the yield on the issue and that, if taken into account, would increase the rebatable arbitrage; and (3) at least 75 percent of the net sale proceeds are used for a governmental purpose within 3 years of the date of issue. This 3-year requirement is applied in the same way as the net sale proceeds requirement that applies for purposes of the computation date credit.

D. Transition Rule for Fixed Yield Issues

A transition rule provides that, unless the issuer otherwise elects, the yield on a fixed yield issue sold on or before May 15, 1989, and issued on or before June 14, 1989, is the expected actual yield on the issue, computed by treating the date of issue as the only computation date.

This transition rule applies only if: (1) The issuer at no time enters into a hedging transaction that is taken into account in computing the yield on the issue and that, if taken into account, would increase the rebatable arbitrage; and (2) at least 25 percent of the net sale proceeds are used for a governmental purpose within 3 years of the date of issue.

E. Transitioned Variable Yield Bonds

Special rules are provided for determining the issue payments in connection with variable yield bonds that are part of a fixed yield issue. The issue payments paid generally are determined in the same manner as if the issue were a variable yield issue, except that the term of the issue is the yield period. The interest to be paid after a computation date is determined by assuming that market interest rates in effect on the computation date do not later change. If a tender bond converts to a fixed rate, the bond is thereafter treated as a fixed yield bond for purposes of determining the issue payments paid and to be paid.

VII. Computation of Yield on Variable Yield Issue

A. General Rule

The yield on a variable yield issue during a yield period is determined by taking into account the issue payments attributable to the yield period and the issue prices of bonds issued during the yield period. The issue payments attributable to the yield period include the early retirement value of the bonds outstanding at the end of the yield period, and these same bonds are treated as if issued at the beginning of the next yield period for the same value. In effect, the bonds are treated as if retired and reissued at the end of each yield period for purposes of computing the yield.

A variable yield issue may include tender bonds, other variable yield bonds, and fixed yield bonds. Separate rules are provided for each type of bond.

B. Tender Bonds

Variable yield bonds are tender bonds if the holders are entitled to tender the bonds for purchase at par on one or more tender dates, and all interest on the bonds accrues (and is currently paid) at the lowest rate that would permit the bonds to be remarketed at par on each tender date.

The issue payments attributable to a yield period include: (1) Any interest that accrued and was paid during the yield period; (2) the tender price of any bond tendered during the yield period; (3) the par amount of any bond retired during the yield period; and (4) the par amount plus unpaid accrued interest (as of the date the interest is scheduled to be paid) of any bond outstanding at the end of the yield period.

Remarketed bonds are treated as if issued after the close of business on the date remarketed. The issue price should equal (and offset) the tender price if the bond is remarketed on the tender date. A bond outstanding at the end of the yield period is treated as if issued at the beginning of the next yield period for the par amount.

A tender bond that converts to a fixed rate is thereafter treated as a fixed yield bond. The issue payment taken into account with respect to the tender bond is the par amount plus unpaid accrued interest (as of the date the interest is scheduled to be paid). The fixed yield bond is treated as if issued for the par amount.

C. Other Variable Yield Bonds

In the case of all other variable yield bonds, the issue payments attributable to a yield period include: (1) Interest that accrued and was paid during the yield period; (2) the early retirement value of any bond retired before maturity during the yield period; (3) the retirement price of any bond retired at maturity during the yield period; and (4) the early retirement value plus unpaid accrued interest (as of the date the interest is scheduled to be paid) of any bond outstanding at the end of the yield period.

For purposes of applying the yield-to-call and early retirement value rules to these bonds: (1) Interest on a bond that is determined by reference to market interest rates after the date of issue (*e.g.*, by reference to the prime rate of a designated financial institution) is assumed to be paid on the basis of market interest rates as of the date of issue (*e.g.*, the prime rate as of the date of issue is assumed to remain the same throughout the term of the issue); (2) payments for a guarantee are taken into

account only for purposes of determining whether the bond is a yield-to-call bond; and (3) the early retirement value on any day is determined without regard to unpaid accrued interest at the assumed rate (*e.g.*, if the early retirement value otherwise would be par plus the present value of the unpaid accrued interest, the early retirement value is par).

A bond (other than a tender bond) that is part of a variable yield issue is a yield-to-call bond if the yield-to-maturity on the bond is higher than the yield-to-call unless the bond is a fixed yield bond or a current index bond. A fixed yield bond or current index bond is a yield-to-call bond only if the yield-to-maturity on the bond is more than one sixteenth percent higher than the yield-to-call. A variable yield bond is a current index bond if all interest on the bond accrues (and is currently paid) at rates that are based on a single interest index or that are fixed and determinable as of the date of issue.

A bond outstanding at the end of a yield period is treated as if issued at the beginning of the next yield period for the early retirement value.

D. Fixed Yield Bonds

The issue payments in connection with fixed yield bonds that are attributable to a yield period generally are determined in the same manner as for fixed yield bonds that are part of a fixed yield issue. The amount treated as an issue payment on the last day of a yield period is the early retirement value (less principal and interest paid that day). The bond is treated as if issued at the beginning of the next yield period for the same value.

E. Conversion to Fixed Yield Issue

Unless the issuer otherwise elects, a variable yield issue is treated as a fixed yield issue as of the first day of a yield period if the issue would be a fixed yield issue if issued that day. For example, if the first yield period for an issue of tender bonds ends on the last day of the third bond year and all the bonds convert to a fixed rate during the third bond year, the issue is treated as a fixed yield issue as of the first day of the fourth bond year. If the first yield period ended on the last day of the fifth bond year, the issue would be treated as a fixed yield issue as of the first day of the sixth bond year. Each bond is treated as if issued for the same amount that would have been taken into account as the issue price if the issue had remained a variable yield issue. The yield on the issue is thereafter computed in the same manner as for a fixed yield issue.

VIII. Allocation and Accounting Rules

A. In General

Section 1.148–4T provides generally that an investment is allocated to an issue for the period: (1) That begins on the date gross proceeds are allocated to the issue and to the investment; and (2) that ends on the date such gross proceeds cease to be allocated to the issue or to the investment. Less than all the gross proceeds may be allocated to the issue in certain cases if the unspent gross proceeds substantially exceed the outstanding amount of the issue.

Most of the rules for allocating gross proceeds to investments and expenditures are reserved. These rules will provide when proceeds of an issue that are not directly used to pay an expenditure may be allocated to the expenditure. In this connection, issuers should be aware that the use of proceeds of an issue to fund an investment fund does not result in a reduction in the amount of the unspent gross proceeds of the issue. Even if the proceeds were allocated to expenditures rather than to the investments in the fund, the investments would still be allocated to gross proceeds (other than the proceeds) if the investment fund is a direct or indirect replacement fund for the issue. Compare, Revenue Ruling 82–101. See, also, section 148(d)(2).

B. Gross Proceeds

Gross proceeds include proceeds and funds (other than proceeds) that are part of a reserve or replacement fund. Proceeds include original, discount, and transferred proceeds. Original proceeds include sale proceeds (amounts received from the sale of the issue) and investment proceeds (amounts received from investing original proceeds). Public comments are invited regarding the appropriate scope of an exception for investment earnings that are commingled with substantial other revenues of the issuer.

The definitions of discount proceeds and reserve or replacement funds are reserved. Discount proceeds may arise in certain cases if the amount of outstanding bonds substantially increases during the term of the issue because the bonds do not pay interest currently. If discount proceeds arise, the proceeds would be allocated to investments or expenditures as appropriate. Reserve or replacement funds include certain pledged and sinking funds that were treated as proceeds under prior law. Issuers should be aware that funds of the issuer or a beneficiary of the financing (or related person) indirectly pledged to pay debt service on the issue are part of a reserve or replacement fund (*e.g.*, funds pledged by an issuer to reimburse a guarantor in the event the guarantor is called upon to make a payment under the guarantee are gross proceeds).

C. Indirect Use

Proceeds of an issue may be used directly to acquire one investment and indirectly to acquire another investment. Any reference in the temporary regulations to proceeds is to be construed to include a reference to proceeds used directly or indirectly. If proceeds are used directly and indirectly, the proceeds are treated as used directly or indirectly (whichever produces the larger amount of rebatable arbitrage).

The indirect use of proceeds of a refunding issue is illustrated in § 1.148–8T(d)(9)(ii) (Examples). These examples illustrate that an indirect use occurs if fully fungible dollars are substituted for other fully fungible dollars solely for tax reasons, and the substitution involves a change in the purpose for which the funds are to be used. The indirect use concept in section 148(a) and § 1.103–13(b)(1), and the requirement in § 1.103–13(f)(4)(ii) that investments purchased with proceeds of a refunding issue must be allocated to such proceeds, implicate and give meaning to one another. A fundamental principle of Federal income taxation is that the substance of a transaction controls if the form of the transaction has no bona fide business purpose other than tax avoidance. This rule applies even when there is no reference to "indirectly" in the Code or regulations.

D. Nonpurpose Investment

Nonpurpose investment includes any taxable investment other than a purpose investment. Purpose investment means any investment (including a tax-exempt bond) that is allocated to gross proceeds of an issue, and that is acquired in order to carry out the governmental purpose of the issue. The use of gross proceeds to make a loan to a borrower in order to carry out the governmental purpose of the issue is not, in itself, an expenditure of the gross proceeds. The use of the gross proceeds by the borrower to finance expenditures is the relevant expenditure. Taxable investments by the borrower prior to actual expenditure of the gross proceeds are nonpurpose investments.

Arbitrage earned on purpose investments is not subject to rebate under section 148(f). In addition, amounts received with respect to purpose investments are not treated as sale or investment proceeds to the

extent properly allocated to recoverable administrative costs or to the permitted one eighth percent higher yield.

E. Check Expenditures

An expenditure of proceeds in a checking or similar account may be treated as made on the date a negotiable check is written on the account if the check is delivered or mailed no later than one business day thereafter, and the payor has no reason to believe that the check will not clear within a reasonable period of time. If the check is delivered or mailed more than one business day after it is written, the expenditure may be treated as occurring on the date of delivery or mailing.

F. Refunding Escrows

Allocation rules are provided for excess gross proceeds of a refunded issue. These rules apply for purposes of section 148 generally.

First, excess replacement funds and excess proceeds of a refunded issue are allocated to investments in the escrow that are to be used to discharge the refunded issue. Second, the excess replacement funds and excess proceeds are allocated to investments in the escrow so that these amounts are used to discharge the refunded issue before sale proceeds of the refunding issue are so used. In other words, the refunding proceeds in the escrow are allocated to the investments that are to be used to discharge the latest payments of principal and interest.

Excess replacement funds of a refunded issue generally include gross proceeds (other than proceeds) of the refunded issue that at or around the time of issuance of the refunding issue were part of a sinking fund for the refunded issue and that are not thereafter part of a reasonably required reserve or replacement fund or bona fide debt service fund for the refunded issue or part of a sinking fund for the refunding issue. Excess replacement funds also include all amounts that were accumulated in a bona fide debt service fund for the refunded portion of the refunded issue. No inference is intended that the freeing up of pledged (non-sinking) funds in connection with a refunding cannot involve a replacement.

Excess proceeds of a refunded issue generally include proceeds of the refunded issue that are to be used to discharge principal or interest on the refunded issue, or that were to be used to pay capitalized interest on the refunded portion of the refunded issue.

A transition rule applies (for purposes of section 148(f)) to refunding issues sold on or before May 15, 1989, and issued on or before June 14, 1989. If the transition rule applies, the first allocation rule does not apply, and the second allocation rule applies only to refunding issues issued after August 31, 1986 and to which section 149(d)(4) (relating to abusive advance refunding transactions) applies. If the second allocation rule applies, the rule applies only to excess replacement funds that were gross proceeds of the refunded issue before the refunding and were not part of a reasonably required reserve or replacement fund or used to defease bonds (legally or economically) before the refunding and excess proceeds that were to be used to pay capitalized interest. In addition, the rule applies only for purposes of determining the extent to which proceeds of the refunded issue become transferred proceeds of the refunding issue (not for purposes of determining the rebatable arbitrage with respect to investments of proceeds of the refunding issue other than transferred proceeds).

G. Transferred Proceeds

Section 1.103–14(e)(2)(ii) provides that proceeds of a refunded issue become transferred proceeds of the refunding issue when the refunding proceeds discharge principal of the refunded issue. Unspent and spent proceeds transfer ratably. The transferred proceeds rule has been modified. The new rule applies for purposes of section 148 generally.

Under the new rule, the proceeds of the refunded issue become transferred proceeds of the refunding issue when the refunding proceeds discharge principal or interest on the refunded issue. The same amount of proceeds generally become transferred proceeds as the amount of the proceeds used to discharge such principal or interest. However, in the case of an advance refunding issue to which section 149(d)(4) applies, no transfer occurs on a date to the extent that the transfer would cause the value of the investments allocated to the refunding portion of the refunding issue to exceed by more than 10 percent the value of the outstanding bonds allocated (on a pro rata basis) to the refunding portion of the issue. Unspent proceeds become transferred proceeds before spent proceeds. For this purpose, proceeds invested exclusively in a purpose investment are spent.

The new transferred proceeds rule is simpler. The proceeds are allocated to expenditures on a first-in, first-out basis. The new rule also more accurately reflects the economics of the replacement. To the extent of the unspent proceeds of the refunded issue, the refunding really involves a replacement (rather than a true refunding). The new rule eliminates any benefit from the replacement by eliminating the replacement.

A transition rule applies (for purposes of section 148(f)) to refunding issues sold on or before May 15, 1989 and issued on or before June 14, 1989. If the transition rule applies, the transferred proceeds of the refunding issue are determined as provided in § 1.103–14(e)(2)(ii).

The transition rule does not apply to refunding issues issued after August 31, 1986 that (if the transition rule did apply) would be described in section 149(d)(4) (relating to abusive advance refunding transactions). This exception is intended to apply to an advance refunding that was deliberately structured to earn arbitrage profits through employment of the window refunding device described in the legislative history of section 149(d)(4). See, S. Rep. No. 99–313, 99th Cong., 2d Sess. 850, 851 (1986) (Example (4)).

IX. Elections.

Elections under the regulations must be in writing and signed by an authorized representative of the issuer no later than the later of: (1) The date of issue; or (2) if the issue is issued on or before November 15, 1989, the first date after June 14, 1989, that any rebate is paid or required to be paid to the United States. An election is not effective unless the election identifies the issue to which it applies and is maintained as part of the official transcript of the proceedings relating to the issuance. Elections, once made, generally are not revocable.

X. Rules Applicable for Section 148 Generally

Section 1.148–9T provides that the following rules apply for purposes of section 148 generally:

1. The rules for computing the yield on a fixed yield issue apply for purposes of section 148(a) and (d)(3). For this purpose, the date of issue is treated as the only computation date.

2. For purposes of section 148, the yield on nonpurpose investments not purchased with gross proceeds (*e.g.*, investments purchased before the date of issue and contributed to a debt service reserve fund for the issue) is determined on the basis of the same purchase price that is used for purposes of computing the rebatable arbitrage (*e.g.*, a purchase price equal to the fair market value of the investment on the date the investment is allocated to the gross proceeds).

3. The special refunding allocation rules and transferred proceeds rule

apply for purposes of section 148. In addition, receipts imputed to an investment in an escrow are treated as interest on the investment for purposes of section 148.

4. A rule that provides that certain perpetual trust funds are not treated as reserve or replacement funds applies for purposes of section 148.

5. The definition of investment property applies for purposes of section 148.

Section 1.148–9T generally applies to issues sold after May 15, 1989 or issued after June 14, 1989

XI. Abusive Advance Refunding Transactions

Section 149(d)(4) provides that interest on a bond is not tax-exempt if any bond that is part of the issue is issued to advance refund another bond and a device is employed in connection with the issuance to obtain any material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates. Advance refundings are sophisticated financial transactions that present serious potential for arbitrage abuse. Section 1.149(d)–1T(d)(2) provides that any issue to which section 149(d)(4) and the rebate requirement apply that fails to meet the rebate requirement is issued in connection with such a device.

XII. Definitions and Special Rules Relating to Tax-Exempt Bond Requirements in General

Section 1.150–1T includes definitions that apply for purposes of the regulations under sections 141 through 150 except to the extent otherwise provided. These definitions include: (1) definitions of private activity bond, fixed yield bond, variable yield bond, tender bond, and current index bond; and (2) definitions of sale date, date of issue, and final maturity date.

Regulatory Impact Analysis

These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Drafting Information

These temporary regulations were drafted in the Office of Tax Legislative Counsel, Department of the Treasury. However, personnel from other offices of the Treasury Department and the Internal Revenue Service participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.61–1–1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of amendments to the regulations

For the reasons set forth in the preamble, Parts 1 and 602 of Title 26, Code of Federal Regulations, are amended as set forth below:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C 7805. * * * Sections 1.148–0T through 1.148–9T also issued under 26 U.S.C. 148(f) and (i). Section 1.149(d)–1T also issued under 26 U.S.C. 149(d)(7).

Par. 2. Sections. 1.148–0T through 1.148–9T and sections 1.149(d)–1T, 1.150–0T and 1.150–1T are added in the appropriate places. The new sections read as follows:

§ 1.148–0T Scope and effective date of restrictions on arbitrage (temporary).

(a) *Scope*—(1) *In general.* The provisions of §§ 1.148–1T through 1.148–9T prescribe temporary regulations under section 148. The Federal income tax exemption of interest on State and local bonds under section 103(a) enables State and local governments to borrow at lower interest rates than taxable issuers. This lower interest rate enables State and local governments to finance their governmental activities at significantly less cost. The lower interest rate also provides the potential to benefit from tax arbitrage by investing proceeds of the bonds in taxable investments. The principal purpose of section 148 is to eliminate significant arbitrage incentives to issue more bonds, to issue bonds earlier, and to leave bonds outstanding longer than necessary to carry out the governmental purpose of the tax-exempt issue. A secondary purpose of section 148 is to minimize the tax arbitrage benefit associated with investing proceeds of the bonds in taxable investments. Minimizing this tax benefit targets the tax benefits to the activities for which the tax exemption is provided. If a State or local bond is an arbitrage bond (within the meaning of section 148), interest on the bond is not excluded from gross income under section 103(a). See section 103(b)(2).

(2) *Arbitrage bond defined.* Section 148(a) provides generally that the term "arbitrage bond" means any bond issued as part of an issue any portion of the proceeds of which is reasonably expected (at the time of issuance of the bond) to be used to acquire higher yielding investments or to replace funds that were used to acquire such investments. In addition, a bond is treated as an arbitrage bond if the issuer at any time intentionally uses any portion of the proceeds of the issue in such manner. Section 148(b) provides generally that the term "higher yielding investments" means investments (other than certain tax-exempt bonds) that produce a yield over the term of the issue that is materially higher than the yield on the issue. Section 148 (c), (d), and (e) provide exceptions for proceeds invested for a reasonable temporary period, as part of a reasonably required reserve or replacement fund, and as part of a minor portion.

(3) *Required rebate to the United States.* Section 148(f) provides generally that a bond that is part of an issue shall be treated as an arbitrage bond unless the issuer rebates to the United States arbitrage profits earned from investing in nonpurpose investments. Section 148(f)(6) provides generally that the term "nonpurpose investment" means any investment (other than certain tax-exempt bonds) that is acquired with gross proceeds of the issue, and that is not acquired in order to carry out the governmental purpose of the issue. Section 148(f)(4) provides exceptions for certain 6-month temporary investments and for small issuers with general taxing powers. Section 148(f) does not apply to qualified veterans' mortgage bonds, or to qualified mortgage bonds issued on or before December 31, 1988.

(4) *Reserve or replacement fund financing limitation.* Section 148(d)(2) provides generally that a bond that is part of an issue shall be treated as an arbitrage bond if the amount of the sale proceeds of the issue that is part of a reserve or replacement fund exceeds 10 percent of the proceeds of the issue. This limitation restricts overissuance of tax-exempt bonds in order to obtain significant financial advantages through exploitation of the interest rate differential between the tax-exempt issue and a comparable taxable issue. See also section 149(d) (relating to additional restrictions on advance refundings) and section 149(f) (relating to additional restrictions on pooled financings).

(5) *Nonpurpose investment yield restriction.* Section 148(d)(3) provides generally that a private activity bond

(other than a qualified 501(c)(3) bond) that is part of an issue shall be treated as an arbitrage bond if the amount invested during any bond year in nonpurpose investments with a yield materially higher than the yield on the issue exceeds 150 percent of the debt service on the issue for the bond year.

(b) *Effective dates*—(1) *In general*—(i) *1986 Reform Act.* Section 148 was added to the Internal Revenue Code by section 1301 of the Tax Reform Act of 1986 (hereinafter in this section referred to as the "1986 Act"). The restrictions on arbitrage formerly were contained in section 103(c) of the 1954 Code. Regulations under section 103(c) are contained in §§ 1.103–13, 1.103–14, 1.103–15, and 1.103–15AT.

(ii) *General effective date.* The amendments made by section 1301 of the 1986 Act (including the provisions of section 103 and section 148) generally apply to any bond issued after—

(A) August 15, 1986 if the bond is not a governmental bond described in section 1312(c)(2) of the 1986 Act; and

(B) August 31, 1986 if the bond is a governmental bond described in section 1312(c)(2).

See section 1311(a) and section 1312(c) of the 1986 Act.

(iii) *General transition rules.* In the case of a bond to which the amendments made by section 1301 of the 1986 Act do not apply solely by reason of section 1312(a) (relating to construction or binding agreements) or section 1313(a) or (b) (relating to certain current or advance refundings), the requirements of section 148 are treated as included in section 103 of the 1954 Code. See section 1312(b)(1)(H) and section 1313(a)(3)(C) and (b)(3)(C) of the 1986 Act. If a bond to which section 148 applies by reason of such provisions is treated as an arbitrage bond under section 148, interest on the bond is not excluded from gross income under section 103(a) of the 1954 Code.

(2) *Required rebate*—(i) *Bonds issued before general effective date or pursuant to special transition rules.* Under section 1314(d) of the 1986 Act, section 103 of the 1954 Code is treated as including the requirements of section 148(f) in order for section 103(a) of the 1954 Code to apply in the case of any bond issued after—

(A) December 31, 1985 if the bond is not a governmental bond described in section 1312(c)(2) of the 1986 Act;

(B) 3 p.m. E.D.T., July 17, 1986 if the bond is a governmental pool bond described in section 1312(c)(2) and section 1314(d)(3); and

(C) August 31, 1986 if the bond is a governmental bond described in section 1312(c)(2) and is not a governmental pool bond described in section 1314(d)(3).

No provision of subtitle B of Title XIII of the 1986 Act overrides the provisions of section 1314(d) unless the provision expressly refers to section 148(f). See section 1314(i) of the 1986 Act.

(ii) *Bonds to which §§ 1.148–1T through 1.148–1T apply*—(A) *In general.* Except as otherwise provided, the provisions of §§ 1.148–1T through 1.148–8T apply to any bond to which section 148(f) applies.

(B) *Certain retired issues.* The provisions of §§ 1.148–1T through 1.148–8T shall not apply to any bond that is part of an issue if—

(*1*) The last bond that is part of the issue is discharged on or before May 15, 1989; and

(*2*) The issuer in good faith determines the amount described in section 148(f)(2) (if any) and pays such amount to the United States no later than the later of May 15, 1989, and the date 60 days after the last bond that is part of the issue is discharged.

(C) *Election in.* In the case of a bond to which section 148(f) does not apply and to which section 103(c)(6)(D) of the 1954 Code applies, the issuer may elect to apply the provisions of §§ 1.148–1T through 1.148–8T (in lieu of the provisions of § 1.103–15AT(d)) for purposes of determining whether the bond meets the requirements of section 103(c)(6)(D) of the 1954 Code. See § 1.148–8T(h) for elections.

(3) *Bonds to which § 1.148–9T applies.* Section 1.148–9T provides that certain provisions of §§ 1.148–1T through 1.148–8T apply for purposes of section 148 generally. Section 1.148–9T generally applies to any bond sold after May 15, 1989, or issued after June 14, 1989.

(c) *Cross reference.* See § 1.148–8T for definitions and special rules relating to required rebate. See § 1.150–1T for definitions and special rules relating to tax-exempt bond requirements in general.

(d) *List of subjects.* This paragraph (d) lists the paragraphs, subparagraphs, and subdivisions contained in §§ 1.148–1T through 1.148–9T.

§ 1.148–1T Required rebate to the United States (temporary).

(a) General rule.
(b) Required rebate.
(1) General rule.
(i) In general.
(ii) Refunding issues.
(2) Income included in final rebate.
(i) In general.
(ii) Final payment period.
(iii) Final payment rate.
(iv) De minimis rule.
(3) Payment of required rebate.
(i) Rebate installments.
(ii) Final rebate.
(iii) De minimis rule.
(iv) Series of issues. [Reserved]
(v) Method of payment.
(c) Certain failures not to result in loss of tax exemption.
(1) Innocent failures may be corrected without penalty.
(i) In general.
(ii) Innocent failure.
(iii) Aggregation rule.
(2) Correction amount.
(i) In general.
(ii) Installment failure.
(iii) Correction period.
(iv) Correction rate.
(3) Payment of penalty in lieu of loss of tax exemption.
(d) Recovery of overpayment. [Reserved]
(e) Exemption from gross income of sum rebated. [Reserved]

§ 1.148–2T Computation of rebatable arbitrage (temporary).

(a) General rule.
(1) Nonpurpose receipts.
(2) Nonpurpose payments.
(b) Determination of nonpurpose receipts and payments.
(1) In general.
(2) Receipts.
(i) Actual receipt.
(ii) Disposition receipt.
(iii) Installment date receipt.
(iv) Rebate receipt.
(v) Imputed receipt.
(3) Payments.
(i) Direct payment.
(ii) Constructive payment.
(iii) Rebate payment.
(iv) Coordination with correction amount.
(4) Computation date credit.
(i) In general.
(ii) Credit amount.
(iii) Eligible computation date.
(5) Certain lower yielding investments not taken into account.
(i) Advance refunding escrows.
(ii) Certain reserve or replacement funds.
(c) Computation of future value.
(1) In general.
(2) Examples.
(d) Determination of fair market value.
(1) In general.
(2) Established securities market.
(3) Restricted escrows.
(i) In general.
(ii) Exception.
(4) Certain SLGs.
(5) Investment contract.
(e) Computation of present value.
(1) In general.
(2) Discount rate.
(i) In general.
(ii) Special rules for restricted escrows.
(iii) Special rules for certain SLGs.
(3) Disposition assumption.
(4) Compounding interval.
(5) Approximate method.
(i) In general.
(ii) Eligible investment.
(6) Example.

§ 1.148–3T Computation of yield on issue (temporary).

(a) In general.

(b) Definitions and special rules.
(1) Fixed yield issue.
(i) In general.
(ii) Transition rule.
(2) Variable yield issue.
(i) In general.
(ii) Yield period.
(3) Conversion to fixed yield.
(i) Conversion to fixed yield bond.
(ii) Conversion to fixed yield issue.
(4) Yield-to-call bond.
(i) In general.
(ii) Yield-to-call bond.
(5) Bond yield.
(i) In general.
(ii) Yield-to-maturity.
(iii) Lowest yield.
(6) Retirement prices.
(i) In general.
(ii) Stated retirement price.
(7) Early retirement value.
(i) In general.
(ii) Tender bond.
(iii) Special rules for certain discount bonds subject to mandatory early redemption.
(8) Present value.
(i) In general.
(ii) Discount rate, etc.
(iii) Approximate method.
(iv) Special present value for large fixed yield issues.
(9) Special rules for variable yield bonds.
(10) Actually paid.
(i) In general.
(ii) Unconditionally payable.
(11) Compounding interval.
(i) Bond.
(ii) Issue.
(12) Qualified guarantees.
(i) In general.
(ii) Guarantee.
(iii) Reasonable charge.
(iv) Nonguarantee element.
(v) Purpose investment bond guarantee.
(vi) When payments coincide.
(vii) Special rule for parity issues.
(viii) Eligible purpose investment.
(ix) Transition rule.
(13) Special rules for guarantee payments.
(i) Allocation to bonds.
(ii) Special rules for variable yield bonds.
(iii) Definitions and special rules.
(14) Certain hedging transactions. [Reserved]
(c) Computation of yield on fixed yield issue.
(1) General rule.
(i) Issue payments.
(ii) Issue prices.
(2) Determination of issue payments paid.
(i) Principal and interest.
(ii) Qualified guarantee.
(iii) Early retirement value.
(iv) Retirement price.
(3) Determination of issue payments to be paid.
(i) Scheduled early retirements.
(ii) Optional retirements.
(4) Special rule for small issues.
(i) In general.
(ii) Eligible small issue.
(5) Transition rule for fixed yield issues.
(6) Special rules for transitioned variable yield bonds.
(i) Issue payments paid.
(ii) Issue payments to be paid.
(iii) Tender bond remarketing.
(7) Examples.
(d) Computation of yield on variable yield issue.
(1) General rule.
(i) Issue payments.
(ii) Issue prices.
(2) Variable yield bonds.
(i) Issue payments.
(ii) Issue prices.
(3) Fixed yield bonds.
(i) Issue payments.
(ii) Issue prices.
(4) Examples.

§ 1.148–4T Allocation and accounting rules (temporary).

(a) General rule.
(b) Allocation of gross proceeds to issue. [Reserved]
(c) Allocation of gross proceeds to expenditures.
(1) In general. [Reserved]
(2) Expenditures from checking account.
(d) Allocation of gross proceeds to investments. [Reserved]
(e) Special allocation rules for refundings.
(1) Allocation of excess gross proceeds of refunded issue.
(i) Allocation of excess gross proceeds to escrow.
(ii) Allocation of excess gross proceeds in escrow.
(iii) Excess replacement funds.
(iv) Excess proceeds.
(v) Transition rule.
(2) Transferred proceeds.
(i) In general.
(ii) Special rules.
(iii) Transition rule.

§ 1.148–5T Transactions giving rise to imputed receipts (temporary).

(a) In general. [Reserved]
(b) Certain temporary investment accounts.
(1) No receipt imputed.
(2) Bond yield limit.
(3) Qualified accounts.
(i) Nonpurpose receipt account.
(ii) Purpose receipt account.
(iii) Checking account.
(iv) Disqualified account.
(4) Aggregation of accounts.
(5) Gross proceeds.
(c) Certain imputed escrow receipts.
(1) Defeasance receipt.
(i) In general.
(ii) Interest saving.
(iii) Transition rule.
(iv) Savings treated as paid in computing yield on defeased bond.
(2) Excess tax-exempt receipt.
(i) In general.
(ii) Excess receipts.
(3) Escrow.
(4) Examples.

§ 1.148–6T 6-month temporary investment exception and other special rules (temporary). [Reserved]

§ 1.148–7T Exception for small issuers with general taxing powers (temporary). [Reserved]

§ 1.148–8T Definitions and special rules relating to required rebate (temporary).

(a) Applicability.
(b) Computations and determinations.
(1) Computation dates.
(i) In general.
(ii) Installment date.
(iii) Final date.
(iv) Other date.
(2) Bond year.
(3) Discharge.
(4) Actual facts.
(5) Present value.
(6) Conventions.
(i) Whole intervals.
(ii) Short intervals.
(iii) Yield.
(iv) Other conventions.
(c) Issue price.
(1) In general.
(2) Special rules.
(i) Reasonable expectations.
(ii) Bonds offered at a discount.
(iii) Bona fide offering required.
(iv) Tender bond remarketing.
(3) Fair market value limit.
(4) Aggregate issue price.
(d) Gross proceeds.
(1) In general.
(2) Proceeds.
(3) Original proceeds.
(4) Sale proceeds.
(5) Investment proceeds.
(6) Net sale proceeds.
(i) In general.
(ii) Capitalized interest.
(iii) Special rules for refunded and refunding issues.
(7) Discount proceeds. [Reserved]
(8) Transferred proceeds.
(9) Indirect use.
(i) In general.
(ii) Examples.
(10) Reserve or replacement fund.
(i) In general. [Reserved]
(ii) Certain perpetual trust funds.
(e) Investments.
(1) In general.
(2) Investment property.
(3) Tax-exempt bond.
(i) In general.
(ii) AMT bond.
(iii) Tax-exempt mutual fund.
(4) Qualified exempt investment.
(i) In general.
(ii) Exempt demand deposit.
(iii) Exempt temporary investment. [Reserved]
(5) Security. [Reserved]
(6) Obligation. [Reserved]
(7) Annuity contract. [Reserved]
(8) Investment-type property. [Reserved]
(9) Nonpurpose investment.
(10) Purpose investment.
(11) Transferred investment.
(12) SLG.
(13) Fixed rate investment.
(14) Investment contract.
(f) Issues.
(1) In general. [Reserved]
(2) Refundings.
(i) Refunding issue.
(ii) Refunded issue.
(g) Restricted escrows.
(1) In general.
(2) Advance refunding escrow.
(3) Excess proceeds escrow.
(4) Same escrow.

(5) Examples.
(h) Elections.
(1) In general.
(2) Procedural requirements.
(3) Special rules.
(i) Issue.
(ii) Extension of time.
(4) Cross reference.

§ 1.148–9T Certain rules applicable for purposes of section 148 generally (temporary).

(a) Computation of yield on fixed yield issue.
(b) Computation of yield on investments.
(c) Refunding allocation rules.
(d) Certain imputed escrow receipts.
(e) Certain perpetual trust funds.
(f) Investment property.
(g) Effective dates.
(1) In general.
(2) Computation of yield on investments.
(3) Investment property.

§ 1.148–1T Required rebate to the United States (temporary).

(a) *General rule.* Under section 148(f) and this section, any bond that is part of an issue shall be treated as an arbitrage bond (within the meaning of section 148) if the requirements of this section are not met with respect to the issue. This section does not apply to any qualified veterans' mortgage bond, or to any qualified mortgage bond issued on or before December 31, 1988. See § 1.148–0T for scope and effective date. See § 1.148–6T for 6-month temporary investment exception. See § 1.148–7T for exception for small issuers with general taxing powers. See § 1.148–8T for definitions and special rules relating to required rebate. See § 1.150–1T for definitions and special rules relating to tax-exempt bond requirements in general.

(b) *Required rebate*—(1) *General rule*—(i) *In general.* Except as otherwise provided in paragraph (b)(1)(ii) of this section, an issue meets the requirements of this section if—

(A) *Rebate installments.* At least 90 percent of the rebatable arbitrage as of each installment computation date; and

(B) *Final rebate.* All the rebatable arbitrage as of the final computation date and any income attributable to such rebatable arbitrage;

is paid to the United States in accordance with the requirements of paragraph (b)(3) of this section. See § 1.148–8T(b)(1) for definitions of installment and final computation date. See § 1.148–2T for computation of rebatable arbitrage. See paragraph (b)(2) of this section for income included in final rebate.

(ii) *Refunding issues.* A refunding issue shall not be treated as meeting the requirements of this section unless—

(A) Each tax-exempt refunded issue to which this section, § 1.103–15AT(d), or § 6a.103A–2(i)(4) applies; and

(B) If the refunding issue is part of a series of refundings, each tax-exempt refunded issue in the series and to which this section, § 1.103–15AT(d), or § 6a.103A–2(i)(4) applies;

meets the requirements of this section, § 1.103–15AT(d), or § 6a.103A–2(i)(4) (whichever applies).

(2) *Income included in final rebate.* For purposes of this section—(i) *In general.* Except as otherwise provided in paragraph (b)(2)(iv) of this section, the income attributable to the rebatable arbitrage is—

(A) To the extent amounts are identified under a reasonable accounting system as the rebatable arbitrage and invested at an arm's length interest rate during the final payment period, the amount earned from investing such amounts during the final payment period; and

(B) To the extent amounts are not so identified or invested, the amount that would have been earned if such amounts had been so identified and were invested during the final payment period at the final payment rate.

(ii) *Final payment period.* The final payment period begins on the final computation date and ends on the date 15 days before the final rebate is paid. Such period shall not include any day after the final rebate is required to be paid.

(iii) *Final payment rate.* The final payment rate is the maximum interest rate (with interest compounded and added to principal semiannually) in effect on the final computation date for a SLG with a term equal to the longer of the final payment period and 30 days. If the final rebate is paid no later than January 16, 1990, such rate shall not exceed the average of the maximum interest rates in effect on the first business day of each month during the final payment period for a SLG with a term of 60 days.

(iv) *De minimis rule.* No income shall be attributable to the rebatable arbitrage if—

(A) The amount described in paragraph (b)(2)(i) of this section is less than $300; and

(B) The final rebate is paid no later than 60 days after the final computation date.

If the final rebate is paid no later than January 16, 1990, paragraph (b)(2)(iv)(A) shall be applied by substituting "less than $1000" for "less than $300", and paragraph (b)(2)(iv)(b) shall not apply.

(3) *Payment of required rebate.* For purposes of this section—

(i) *Rebate installments.* Each rebate installment is required to be paid no later than the date 60 days after the installment computation date.

(ii) *Final rebate.* The final rebate is required to be paid no later than the latest of—

(A) The date 60 days after the final computation date;

(B) The date 8 months after the date of issue; and

(C) The earlier of the date the issuer no longer reasonably expects section 148(f)(4)(B) (relating to temporary investment exception) to apply to the issue, and the date 14 months after the date of issue.

In no event shall such date be earlier than January 16, 1990.

(iii) *De minimis rule.* Each rebate installment and the final rebate may be rounded down to the nearest multiple of $100. For example, $793,785.86 is rounded to $793,700. Any amount less than $100 is rounded to zero.

(iv) *Series of issues.* [Reserved]

(v) *Method of payment.* A rebate or correction amount is paid when filed with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. The payment shall be accompanied by Form 8038–T if the payment is filed after such form has been made generally available. Prior to such time, the payment should be accompanied by a statement identifying the issuer and the issue with respect to which the rebate or correction amount is paid and a copy of the Form 8038, 8038–G, or 8038–GC filed with respect to the issue (if such form is required to be filed). The statement should include the Committee on Uniform Security Identification Procedures (CUSIP) number for the bond with the latest maturity for which there is a CUSIP number.

(c) *Certain failures not to result in loss of tax exemption.* For purposes of this section—

(1) *Innocent failures may be corrected without penalty*—(i) *In general.* An issue shall be treated as meeting the requirements of this section notwithstanding an innocent failure to meet a requirement if the issuer pays the correction amount to the United States in the manner provided in paragraph (b)(3)(v) of this section no later than the date that is—

(A) 60 days after the later of the date the failure first occurred or is discovered if the correction amount is $50,000 or more; or

(B) 180 days after the later of the date the failure first occurred or is discovered if the correction amount is less than $50,000.

The Commissioner may extend the time specified in this paragraph (c)(1)(i) if the correction amount is less than $50,000, or if the issuer files a request for extension before the expiration of such time.

(ii) *Innocent failure*—(A) *In general.* Factors to be taken into account in determining whether a failure is innocent include the size of the correction amount, the size of the issue, the sophistication of the issuer (or ultimate obligor), the steps taken to comply, the nature of the failure, and the length of the delay.

(B) *Explanation required.* If the correction amount is $50,000 or more, a failure shall be treated as innocent only if the correction amount is accompanied by a brief explanation of the failure and basis for concluding that the failure is innocent.

(C) *Safe harbor.* A failure shall be treated as innocent if—

(*1*) The correction amount is paid no later than the date specified in paragraph (c)(1)(i) of this section;

(*2*) If the correction amount is $50,000 or more, the brief explanation required under paragraph (c)(1)(ii)(B) of this section is reasonably accurate; and

(*3*) The Commissioner does not notify the issuer within 90 days after the receipt of the correction amount that this paragraph (c)(1)(ii)(C) shall not apply.

This paragraph (c)(1)(ii)(C) shall not apply to a failure if the issue is under examination by the Commissioner at any time during the period beginning on the date the failure first occurred and ending on the date 90 days after the receipt of the correction amount.

(iii) *Aggregation rule.* If an issue fails to meet more than one of the requirements of this section as of a date, all the failures as of such date shall be treated as one failure and all the correction amounts shall be treated as one correction amount for purposes of applying this paragraph (c)(1).

(2) *Correction amount*—(i) *In general.* Except as otherwise provided in paragraph (c)(2)(ii) of this section, the correction amount with respect to a failure is the sum of—

(A) The amount of the rebate not paid when required; and

(B) The amount that would have been earned if such amount had been invested during the correction period at the correction rate.

(ii) *Installment failure*—(A) *Corrected on or before final computation date.* The correction amount with respect to a failure to pay a rebate installment that is corrected on or before the final computation date shall not be less than the future value (as of the date the correction amount is paid) of the amount of the rebate installment not paid when required. Future value is determined as provided in § 1.148–2T(c)(1) by treating the first interval as beginning on the date the rebate installment was required to be paid and the last interval as ending on the date the correction amount is paid.

(B) *Corrected after final computation date.* The correction amount with respect to a failure to pay a rebate installment that is corrected after the final computation date shall not be less than the sum of—

(*1*) The amount described in paragraph (c)(2)(ii)(A) of this section (determined as if the correction amount was paid on the final computation date); and

(*2*) The amount that would have been earned on such amount after the final computation date and during the correction period if such amount had been invested at the correction rate (determined as if the correction period began on the final computation date).

(iii) *Correction period.* The correction period begins on the date the rebate is required to be paid and ends on the date 7 days before the correction amount is paid.

(iv) *Correction rate.* The correction rate is the maximum interest rate (with interest compounded and added to principal semiannually) in effect on the first business day of the correction period for a SLG with a term equal to the longer of the correction period and 30 days. In the case of a failure to pay the final rebate, such rate shall not be less than the maximum interest rate in effect on the final computation date for a SLG with a term equal to the final payment period and correction period.

(3) *Payment of penalty in lieu of loss of tax exemption.* An issue that (but for this paragraph (c)(3)) would fail to meet a requirement of this section shall be treated as meeting such requirement if (and only if)—

(i) The Commissioner determines that the failure is not due to willful neglect; and

(ii) The issuer pays to the United States no later than the date specified by the Commissioner in such determination—

(A) The correction amount; and

(B) A penalty equal to the sum of—

(*1*) 50 percent of the amount of the rebate not paid when required (100 percent if any bond that is part of the issue is a private activity bond other than a qualified 501(c)(3) bond); and

(*2*) Interest on the amount of the rebate not paid when required for the period beginning on the date the rebate was required to be paid (at the underpayment rate established under section 6621 and the regulations thereunder).

The Commissioner may waive all or any portion of the penalty under paragraph (c)(3)(ii)(B) of this section.

(d) *Recovery of overpayment.* [Reserved]

(e) *Exemption from gross income of sum rebated.* [Reserved]

§ 1.148–2T Computation of rebatable arbitrage (temporary).

(a) *General rule.* The rebatable arbitrage with respect to an issue as of any computation date is the excess of—

(1) *Nonpurpose receipts.* The future value of all the nonpurpose receipts with respect to the issue; over

(2) *Nonpurpose payments.* The future value of all the nonpurpose payments with respect to the issue.

Future value is computed as of the computation date. See paragraph (b) of this section for determination of nonpurpose receipts and payments. See paragraph (c) of this section for computation of future value. See § 1.148–6T for 6-month temporary investment exception and other special rules. See § 1.148–6T for definitions and special rules relating to required rebate. See § 1.150–1T for definitions and special rules relating to tax-exempt bond requirements in general.

(b) *Determination of nonpurpose receipts and payments*—(1) *In general.* For purposes of paragraph (a) of this section, any receipt or payment with respect to a nonpurpose investment allocated to an issue is a nonpurpose receipt or payment with respect to such issue. See § 1.148–4T for allocation and accounting rules.

(2) *Receipts.* For purposes of this section—

(i) *Actual receipt.* The term "receipt" means, with respect to an investment allocated to an issue, any amount actually or constructively received with respect to the investment. Receipts are not reduced by selling commissions, administrative expenses, or similar expenses. See § 1.451–2 for examples of constructive receipt.

(ii) *Disposition receipt.* An investment that ceases to be allocated to an issue other than by reason of a sale or retirement shall be treated as if sold on the date of such cessation for fair market value. For example, an investment allocated to an issue on the final computation date is treated as if sold for fair market value on such date. See paragraph (d) of this section for determination of fair market value. This paragraph (b)(2)(ii) shall not apply for

purposes of computing the present value of an investment under paragraph (e) of this section.

(iii) *Installment date receipt.* For purposes of applying paragraph (a)(1) of this section on an installment computation date, the fair market value of all nonpurpose investments allocated to the issue at the close of business on such date shall be taken into account as a nonpurpose receipt with respect to the issue as of such date. The preceding sentence may be applied on any installment computation date to all fixed rate investments by substituting "present value" for "fair market value". See paragraph (e) of this section for computation of present value.

(iv) *Rebate receipt.* Any amount recovered with respect to an issue under § 1.148–1T(d) shall be treated as a nonpurpose receipt with respect to the issue.

(v) *Imputed receipt.* Any imputed receipt with respect to an investment shall be treated as a receipt with respect to such investment. See § 1.148–5T for transactions giving rise to imputed receipts.

(3) *Payments.* For purposes of this section—

(i) *Direct payment.* The term "payment" means, with respect to an investment allocated to an issue, the amount of gross proceeds of the issue to which the investment is allocated directly used to purchase the investment. Payments do not include brokerage commissions, administrative expenses, or similar expenses.

(ii) *Constructive payment.* An investment that was not directly purchased with gross proceeds of the issue to which the investment is allocated shall be treated as if directly purchased with such gross proceeds for fair market value on the date so allocated. For example, an investment in a reserve fund that was not purchased with gross proceeds allocated to the issue is treated as if purchased with such gross proceeds for fair market value on the date the investment is allocated to the issue.

(iii) *Rebate payment.* Any payment of rebatable arbitrage with respect to an issue as provided in § 1.148–1T(b)(3)(v) no later than the date required under § 1.148–1T(b)(3)(i) shall be treated as a nonpurpose payment with respect to the issue.

(iv) *Coordination with correction amount.* The amount of any rebate installment with respect to an issue required to be paid under § 1.148–1T(b)(1)(i)(A) but not paid by the date required under § 1.148–1T(b)(3)(i) shall be treated as a nonpurpose payment with respect to the issue as of the date the amount is required to be paid.

(4) *Computation date credit*—(i) *In general.* For purposes of paragraph (a)(2) of this section, the computation date credit on each eligible computation date shall be treated as a nonpurpose payment with respect to the issue as of such date.

(ii) *Credit amount.* The computation date credit with respect to an issue on an eligible computation date is—

(A) $1,000 if the aggregate issue price of the bonds that are part of the issue and outstanding immediately before such date is more than $5 million;

(B) $625 if the aggregate issue price of such bonds is more than $1 million but not more than $5 million; and

(C) $250 if the aggregate issue price of such bonds is not more than $1 million.

(iii) *Eligible computation date.* For purposes of this paragraph (b)(4), a computation date is an eligible computation date unless—

(A) Such date is less than one year after the immediately preceding computation date (or the date of issue if such date is the first computation date); or

(B) Less than 75 percent of the net sale proceeds have been allocated to expenditures (other than expenditures for the payment of the principal or interest on or the retirement price of any bond) no later than such date. See § 1.148–8T(d)(6).

(5) *Certain lower yielding investments not taken into account*—(i) *Advance refunding escrows*—(A) *In general.* For purposes of paragraph (b)(1) and (b)(2)(iii) of this section, investments in advance refunding escrows shall not be treated as nonpurpose investments as of a computation date if the rebatable arbitrage as of such date (with regard to such investments) is lower than the rebatable arbitrage as of such date (without regard to such investments). For purposes of this section, any investment allocated to an issue that ceases to be in an advance refunding escrow (but does not cease to be allocated to the issue) shall be treated as if sold and purchased for present value at the time of such cessation. The receipt arising from such sale shall be treated as a receipt with respect to the investment in the advance refunding escrow, and the payment arising from such purchase shall be treated as a payment with respect to the investment that is not in the advance refunding escrow. See § 1.148–8T(g)(5) (Examples).

(B) *Excess proceeds escrows.* For purposes of paragraph (b)(5)(i)(A) of this section, an investment in an excess proceeds escrow shall be treated as in an advance refunding escrow if the investment is a transferred investment. For purposes of this section, an investment shall be treated as if sold and purchased for fair market value at the time the investment is first in an excess proceeds escrow. The receipt arising from such sale shall be treated as a receipt with respect to the investment that is not in the excess proceeds escrow, and the payment arising from such purchase shall be treated as a payment with respect to the investment in the excess proceeds escrow. The preceding two sentences shall not apply if the second sentence of paragraph (b)(5)(i)(A) of this section applies to the investment at such time. See § 1.148–8T(g)(5) (Examples).

(ii) *Certain reserve or replacement funds*—(A) *In general.* For purposes of paragraph (b)(1) and (b)(2)(iii) of this section, investments allocated to gross proceeds (other than proceeds) that are part of a reserve or replacement fund (other than a reasonably required reserve or replacement fund or bona fide debt service fund) shall not be treated as nonpurpose investments as of a computation date if the rebatable arbitrage as of such date (with regard to such investments) is lower than the rebatable arbitrage as of such date (without regard to such investments).

(B) *Special rule where necessary to blend down.* If investments allocated to a refunding issue and described in paragraph (b)(5)(ii)(A) of this section are at all times (to the extent practicable) invested in SLGs that pay no interest for the purpose of reducing the yield on transferred investments to which paragraph (b)(5)(i) of this section applies, paragraph (b)(5)(ii)(A) shall not apply to such investments, and such investments shall be treated as investments in an advance refunding escrow for purposes of this section. In the case of an issue sold on or before May 15, 1989, and issued on or before June 14, 1989, the preceding sentence shall be applied by substituting "invested in SLGs" for "invested in SLGs that pay no interest".

(c) *Computation of future value*—(1) *In general.* For purposes of paragraph (a) of this section, the future value of a nonpurpose receipt or payment at the end of any interval is determined by using the following formula:

$$FV = PV(1+i)^n$$

where:

FV = The future value of the nonpurpose receipt or payment at the end of the interval. Each interval ends on the last day of a compounding interval. The compounding interval is the same compounding interval used in computing the yield on the issue.

PV = The future value of the nonpurpose receipt or payment at the beginning of the interval or the amount thereof if the computation is for the first interval. The first interval begins on the date the nonpurpose receipt or payment is actually or constructively received or paid (or otherwise is taken into account). The amount of every nonpurpose receipt and payment with respect to an issue that is taken into account at the beginning of the first interval may be rounded to the nearest whole dollar. The preceding sentence shall not apply to receipts and payments with respect to investments in a restricted escrow.

i = The yield on the issue during the interval (expressed as a decimal) divided by the number of compounding intervals in a year. See § 1.148–3T for computation of yield on issue.

n = A fraction, the numerator of which is the length of the interval, and the denominator of which is the length of a whole compounding interval. See § 1.148–8T(b)(6) for computation conventions.

(2) *Examples.* The following examples illustrate the application of this paragraph (c):

Example (1). (i) On January 15, 1987, City A issues a fixed yield issue (as defined in § 1.148–3T(b)(1)). The compounding interval is each 6-month (or shorter) period ending July 1 and January 1, and the bond year is each 1-year (or shorter) period ending January 1. See § 1.148–8T(b)(2). On January 15, 1987, City A invests all the sale proceeds of the issue ($49 million, consisting of the $50 million issue price, less underwriters' discount of $1 million) in shares of a widely held mutual fund to which section 852 applies. The mutual fund does not pay exempt interest dividends. The only investment proceeds of the issue are the daily cash dividends paid on the mutual fund shares, which are reinvested each day in additional mutual fund shares, and amounts received from redemption of the mutual fund shares. Assume there are no other gross proceeds.

(ii) City A redeems the mutual fund shares and expends the gross proceeds for the governmental purpose of the issue as follows:

Date	Amount
2/01/87	$2,000,000.00
4/01/87	5,000,000.00
6/01/87	15,000,000.00
9/01/87	20,000,000.00
1/01/88	9,000,000.00

(iii) The first installment computation date is January 1, 1992. See § 1.148–8T(b)(1)(ii). The yield on the issue as of the first installment computation date is 7.000 percent per annum compounded semiannually (computed on a 30 day month/360 day year basis). The rebatable arbitrage as of the first installment computation date is $161,590.75, computed as follows:

Date	Receipts (payments)	FV (7.000 percent)
1/15/87	$(49,000,000.00)	$(68,934,646.17)
2/01/87	2,000,000.00	2,805,068.27
4/01/87	5,000,000.00	6,932,714.69
6/01/87	15,000,000.00	20,561,011.00
9/01/87	20,000,000.00	26,947,161.62
1/01/88	9,000,000.00	11,851,281.33
1/01/92	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/92)		$161,590.75

The initial $49 million investment and each daily reinvestment of a cash dividend is a nonpurpose payment. See paragraph (b)(3)(i) of this section. Each daily cash dividend and each amount received from redemption of the mutual fund shares is a nonpurpose receipt. See paragraph (b)(2)(i) of this section. Each nonpurpose receipt arising from a daily cash dividend can be netted against the nonpurpose payment arising from the reinvestment of that dividend. Accordingly, the above computation reflects only the initial $49 million nonpurpose payment, the 5 nonpurpose receipts arising from the mutual fund share redemptions, and the $1,000 computation date credit under paragraph (b)(4) of this section.

(iv) City A pays 90 percent of the rebatable arbitrage ($145,431.68) to the United States on February 28, 1992. City A redeems all the bonds on January 1, 1994. The final computation date is January 1, 1994. See § 1.148–8T(b)(1)(iii). The yield on the fixed yield issue as of the final computation date is 6.500 percent per annum compounded semiannually. This yield is used to future value the receipts and payments from the date of issue to the final computation date. See paragraph (c)(1) of this section. The rebatable arbitrage as of the final computation date is $217,090.69, computed as follows:

Date	Receipts (payments)	FV (6.500 percent)
1/15/87	$(49,000,000.00)	$(76,485,055.58)
2/01/87	2,000,000.00	3,112,976.41
4/01/87	5,000,000.00	7,699,913.01
6/01/87	15,000,000.00	22,854,780.43
9/01/87	20,000,000.00	29,989,605.98
1/01/88	9,000,000.00	13,210,621.00
1/01/92	(1,000.00)	(1,136.48)
2/28/92	(145,431.68)	(163,614.11)
1/01/94	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/94)		$217,090.69

Example (2). (i) The facts are the same as in Example (1), except that the issue is a variable yield issue (as defined in § 1.148–3T(b)(2)). The yield on the variable yield issue during the first yield period (the period beginning on the date of issue and ending on the first installment computation date) is 7.000 percent per annum compounded semiannually. The rebatable arbitrage as of the first installment computation is the same as in Example (1)(iii) ($161,590.75).

(ii) City A pays 90 percent of the rebatable arbitrage ($145,431.68) to the United States on February 28, 1992. The yield on the variable yield issue during the second yield period (the period beginning after the close of business on the first installment computation date and ending on the final computation date, 1/01/94) is 6.500 percent per annum compounded semiannually. This yield is used to future value the receipts and payments after the first installment computation date (1/01/92). See paragraph (c)(1) of this section The rebatable arbitrage as of the final computation date is $19,029.89, computed as follows:

Date	Receipts (payments)	FV (7.000/6.500 percent)
1/15/87	$(49,000,000.00)	$(78,342,565.99)
2/01/87	2,000,000.00	3,167,892.56
4/01/87	5,000,000.00	7,878,863.36
6/01/87	15,000,000.00	23,367,094.06
9/01/87	20,000,000.00	30,624,800.52
1/01/88	9,000,000.00	13,468,695.95
1/01/92	(1,000.00)	(1,136.48)
2/28/92	(145,431.68)	(163,614.11)
1/01/94	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/94)		$19,029.89

Alternatively, the rebatable arbitrage as of the final computation date could be computed as follows:

Date	Receipts (payments)	FV (6.500 percent)
1/01/92	$161,590.75	$183,644.00
2/28/92	(145,431.68)	(163,614.11)
1/01/94	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/94)		$19,029.89

Example (3). (i) The facts are the same as in Example (2), except that all the bonds are redeemed on January 1, 2001, and the issue is treated as a fixed yield issue after the close of business on the first installment computation date (1/01/92). See § 1.148–3T(b)(3)(ii). The yield on the fixed yield issue as of the second installment computation date (1/01/97) is 7.500 percent per annum compounded annually. This yield is used to future value the receipts and payments after the first installment computation date. See paragraph (c)(1) of this section. The rebatable arbitrage as of the second installment computation date is $24,575.56, computed as follows:

Date	Receipts (payments)	FV (7.000/7.500 percent)
1/15/87	$(49,000,000.00)	$(98,964,599.63)
2/01/87	2,000,000.00	4,027,038.27
4/01/87	5,000,000.00	9,952,808.51
6/01/87	15,000,000.00	29,517,990.37
9/01/87	20,000,000.00	38,686,135.49
1/01/88	9,000,000.00	17,014,047.03
1/01/92	(1,000.00)	(1,435.63)
2/28/92	(145,431.68)	(206,408.86)
1/01/97	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/97)		$24,575.56

Alternatively, the rebatable arbitrage as of the second installment computation date could be computed as follows:

Date	Receipts (payments)	FV (7.500 percent)
1/01/92	$161,590.75	$231,984.42
2/28/92	(145,431.68)	(206,408.86)
1/01/97	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/97)		$24,575.56

(ii) City A pays 90 percent of the rebatable arbitrage ($22,118.00) to the United States on February 28, 1997. The yield on the fixed yield issue as of the final computation date (1/01/01) is 7.000 percent per annum compounded annually. This yield is used to future value the receipts and payments after the first installment computation date (1/01/92) and until the final computation date. See paragraph (c)(1) of this section. The rebatable arbitrage as of the final computation date is $1,562.68, computed as follows:

Date	Receipts (payments)	FV (7.000/7.000 percent)
1/15/87	$(49,000,000.00)	$(126,733,535.30)
2/01/87	2,000,000.00	5,157,003.60
4/01/87	5,000,000.00	12,745,513.18
6/01/87	15,000,000.00	37,800,580.10
9/01/87	20,000,000.00	49,541,257.54
1/01/88	9,000,000.00	21,788,097.35
1/01/92	(1,000.00)	(1,838.46)
2/28/92	(145,431.68)	(264,521.26)
1/01/97	(1,000.00)	(1,310.80)
2/28/97	(22,118.00)	(28,683.26)
1/01/01	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/01)		$1,562.68

Alternatively, the rebatable arbitrage as of the final computation date could be computed as follows:

Date	Receipts (payments)	FV (7.000 percent)
1/01/92	$161,590.75	$297,078.00
2/28/92	(145,431.68)	(264,521.26)
1/01/97	(1,000.00)	(1,310.80)
2/28/97	(22,118.00)	(28,683.26)
1/01/01	(1,000.00)	(1,000.00)
Rebatable arbitrage (1/01/01)		$1,562.68

(d) *Determination of fair market value*—(1) *In general.* Except as otherwise provided in this paragraph (d), the fair market value of an investment is the price at which a willing buyer would purchase the investment from a willing seller. If the investment is not readily salable, the fair market value shall be determined by taking into account the price at which a willing buyer would purchase the same (or a substantially similar) investment from the issuer of the investment. The price shall not be increased by brokerage commissions, administrative expenses, or similar expenses.

(2) *Established securities market.* The price at which a willing buyer would purchase an investment that is traded in an established securities market (within the meaning of § 15A.453–1(e)(4)(iv)) shall be determined as provided in § 20.2031–2 of this chapter (Estate Tax Regulations); provided that, if the investment is an obligation of the United States (or any agency or instrumentality thereof, within the meaning of section 149(b)) and is backed by the full faith and credit of the United States (or any such agency or instrumentality), such price shall be the mean of the bid and asked prices on the date of determination (or, if there are no bid and asked prices on such date, on the first day preceding such date for which there are bid and asked prices). The bid and asked prices shall be determined either by reference to "Composite Closing Quotations for United States Government Securities" published by the Federal Reserve Bank of New York, or by reference to a comparable compilation of bid and asked prices regularly published in a newspaper of general circulation throughout the United States.

(3) *Restricted escrows*—(i) *In general.* For purposes of applying—

(A) Paragraph (b)(2)(iii) of this section to any investment in a restricted escrow on an installment computation date; and

(B) Paragraph (b)(2)(ii) and (b)(3)(ii) of this section to any investment in a restricted escrow when the investment ceases to be allocated to a refunded issue and is allocated to a refunding issue by reason of § 1.148–4T(e)(2) (including § 1.103–14(e)(2)(ii) if § 1.148–4(e)(2)(iii)(A) applies);

the present value of the investment shall be treated as the fair market value.

(ii) *Exception.* Paragraph (d)(3)(i)(B) of this section shall not apply to an investment that ceases to be allocated to a refunded issue and is allocated to a refunding issue if—

(A) The refunded issue is a tax-exempt issue to which § 1.148–1T applies and § 1.148–7T does not apply;

(B) The refunding issue is not a tax-exempt issue; and

(C) The refunded issue is sold after May 15, 1989, or issued after June 14, 1989.

or if paragraph (d)(3)(i)(B) of this section previously did not apply to the investment by reason of this paragraph (d)(3)(ii).

(4) *Certain SLGs.* If an SLG is not in a restricted escrow, the present value of the SLG shall be treated as the fair market value. See paragraph (e)(2)(iii)(B) of this section for special rule for determining this present value.

(5) *Investment contract.* In the case of nonpurpose investments purchased pursuant to an investment contract, the outstanding principal balance plus accrued interest shall be treated as the fair market value for purposes of applying paragraph (b)(2)(iii) of this section on an installment computation date.

(e) *Computation of present value.* For purposes of this section—

(1) *In general.* The present value of an investment on any date is the present value as of such date of all the receipts to be received with respect to the investment after such date. In the case of an investment in a restricted escrow, payments to be paid after such date shall be taken into account as negative receipts. See § 1.148–8T(b)(5) for formula for determining present value. See paragraph (e)(5) of this section for approximate method for determining present value of certain investments.

(2) *Discount rate*—(i) *In general.* The present value of an investment is computed by using the yield on the investment as the discount rate. The yield on an investment that is allocated to an issue is the discount rate that when used in computing the present value of all the receipts received and to be received with respect to the investment payments with respect to the investment. For purposes of the preceding sentence, present value is computed as of the date the investment became allocated to the issue.

(ii) *Special rules for restricted escrows.* The yield on an investment in a restricted escrow is computed by treating—

(A) All investments in the same restricted escrow (whether or not held concurrently) as one investment; and

(B) The date any investment in the restricted escrow was first in the escrow as the date the one investment became allocated to the issue.

(iii) *Special rules for certain SLGs.* If an SLG is not in a restricted escrow—

(A) *Present value.* Except for purposes of paragraph (d)(4) of this section, the yield on the issue to which the SLG is allocated shall be treated as the yield on the SLG for purposes of computing the present value of the SLG; and

(B) *Fair market value.* For purposes of paragraph (d)(4) of this section, the maximum interest rate in effect on the date of determination for an SLG with a term equal to the remaining term of the SLG shall be treated as the yield on the SLG for purposes of computing the present value of the SLG.

(3) *Disposition assumption.* For purposes of computing the present value of and yield on any investment that is not in a restricted escrow, it shall be assumed that the investment remains allocated to the issue until and will be sold on the highest yield date for the stated price on such date. The highest yield date is the date on which the holder is entitled (under the terms of the investment or pursuant to a separate agreement or option) to require the investment to be purchased, redeemed, or retired at a stated price that, when used in computing the yield on the investment, produces the highest yield.

(4) *Compounding interval.* For purposes of computing the present value of and yield on an investment, the compounding interval is the accrual period (within the meaning of section 1272 and the regulations thereunder) except that—

(i) The accrual period shall be determined by treating the date the investment became allocated to the issue as the issue date;

(ii) If the investment is in a restricted escrow, the accrual period shall be the same as the compounding interval used in computing the yield on the issue that established the escrow or an issue for which the escrow was established or to which the investment is allocated; and

(iii) If the yield on the issue to which an SLG is allocated is treated as the yield on the SLG, the accrual period shall be the same as the compounding interval used in computing the yield on the issue.

(5) *Approximate method*—(i) *In general.* If an investment is an eligible investment, the issuer may treat the outstanding par amount of the investment plus accrued interest unpaid at the close of business on a date as the present value of the investment on such date.

(ii) *Eligible investment.* An investment is an eligible investment if—

(A) The investment is a fixed rate investment that is not an SLG and is not in a restricted escrow;

(B) The payment taken into account with respect to the investment is equal to the outstanding par amount of the investment plus accrued interest (if any) for the period that begins on a date that is less than one year before the date the investment is allocated to the issue and that ends on the date the investment is allocated to the issue;

(C) All interest on the investment (other than such accrued interest) accrues on the outstanding par amount of the investment and is actually and unconditionally due at periodic intervals of one year or less;

(D) The first payment of interest on the investment (including such accrued interest) is due at the end of the first short compounding interval or at the end of the first whole compounding interval; and

(E) The final maturity date of the investment is the highest yield date. See paragraph (e)(3) of this section for highest yield date. See § 1.150–1T(d)(1) for final maturity date.

(6) *Example.* The following example illustrates the application of this paragraph (e):

Example. (i) On July 1, 1993, the first installment computation date, City Y holds two fixed rate investments that are not in a restricted escrow. City Y may treat both of these investments as if sold for present value (or both as if sold for fair market value) for purposes of determining the installment date receipt on the first installment computation date under paragraph (b)(2)(iii) of this section.

(ii) One of the investments is a $100,000 face amount 8.625% United States Treasury note due August 15, 1997, that pays interest on February 15 and August 15 of each year. The present value of the Treasury note is determined by using the yield on the Treasury note as the discount rate. See paragraph (e)(2)(i) of this section. The Treasury note was purchased with gross proceeds for $112,000 (including accrued interest) on February 1, 1990. The yield on the Treasury note is 7.225% per annum compounded semiannually, computed as follows:

Date	Receipts	PV (7.2251652778 percent)
2/15/90	$4,312.50	$4,300.61
8/15/90	4,312.50	4,150.67
2/15/91	4,312.50	4,005.95
8/15/91	4,312.50	3,866.28
2/15/92	4,312.50	3,731.47
8/15/92	4,312.50	3,601.37
2/15/93	4,312.50	3,475.80
8/15/93	4,312.50	3,354.62
2/15/94	4,312.50	3,237.65
8/15/94	4,312.50	3,124.77
2/15/95	4,312.50	3,015.82
8/15/95	4,312.50	2,910.67
2/15/96	4,312.50	2,809.19
8/15/96	4,312.50	2,711.24
2/15/97	4,312.50	2,616.71
8/15/97	104,312.50	61,087.19
Payment (2/01/90)		112,000.00

See paragraph (e)(2)(i) of this section.

(iii) The present value of the Treasury note on the first installment computation date is $108,159.41, computed as follows:

Date	Receipts	PV (7.225 percent)
8/15/93	$4,312.50	$4,275.25
2/15/94	4,312.50	4,126.19
8/15/94	4,312.50	3,982.33
2/15/95	4,312.50	3,843.49
8/15/95	4,312.50	3,709.48
2/15/96	4,312.50	3,580.15
8/15/96	4,312.50	3,455.32
2/15/97	4,312.50	3,334.85
8/15/97	104,312.50	77,852.35
Treasury note PV (7/01/93)		108,159.41

See paragraph (e)(1) and (e)(2)(i) of this section.

§ 1.148–3T Computation of yield on issue (temporary).

(a) *In general.* Under this section, the yield on a fixed yield issue is the same throughout the term of the issue, whereas the yield on a variable yield issue changes each yield period. See paragraph (b) of this section for definitions and special rules. See paragraph (c) of this section for computation of yield on fixed yield issue. See paragraph (d) of this section for computation of yield on variable yield issue. See § 1.148–8T for definitions and special rules relating to required rebate. See § 1.150–1T for definitions and special rules relating to tax-exempt bond requirements in general.

(b) *Definitions and special rules.* For purposes of this section—

(1) *Fixed yield issue*—(i) *In general.* The term "fixed yield issue" means any issue if each bond that is part of the issue is a fixed yield bond. See § 1.150–1T (b)(5) and (b)(6) for definitions of fixed yield bond and variable yield bond.

(ii) *Transition rule.* Any issue sold on or before May 15, 1989 and issued on or before June 14, 1989 shall be treated as a fixed yield issue if the issuer elects to treat the issue as a fixed yield issue. See § 1.148–8T(h) for elections.

(2) *Variable yield issue*—(i) *In general.* The term "variable yield issue" means any issue that is not a fixed yield issue.

(ii) *Yield period*—(A) *In general.* The first yield period for a variable yield issue begins on the date of issue and ends at the close of business on the first computation date. Each succeeding yield period begins immediately after the close of business on a computation date and ends at the close of business on the next succeeding computation date.

(B) *Bond year election.* The issuer of a variable yield issue may elect to treat the last day of any bond year that is not a computation date as a computation date for purposes of applying paragraph (b)(2)(ii)(A) of this section. An election under the preceding sentence with respect to the last day of a bond year may be revoked at any time before the close of business on a computation date (without regard to the preceding sentence) that precedes such last day. The revocation shall be effective only if it is in writing and signed by an authorized representative of the issuer and satisfies the procedural requirements of § 1.148–8T(h)(2).

(C) *First and last day.* Any reference to the last day of a yield period shall be construed as a reference to the period before the close of business on such day, and any reference to the first day of a yield period shall be construed as a reference to the period after the close of business on such day.

(3) *Conversion to fixed yield*—(i) *Conversion to fixed yield bond.* A variable yield bond shall be treated as a fixed yield bond after the close of business on the first day the bond would be a fixed yield bond if issued immediately after the close of business on such day. The fixed yield bond shall be treated as if issued on such day for an issue price equal to the amount taken into account with respect to the bond on such day under paragraph (d)(2)(ii) of this section (without regard to any accrued interest taken into account under paragraph (d)(2)(ii)(A)). The preceding sentence shall not apply for purposes of paragraph (c)(1)(ii) of this section. Principal or interest that accrued on the variable yield bond on or before such day shall not be treated as principal or interest on the fixed yield bond. See paragraph (d)(4) of this section (Examples (9)–(11)). This paragraph (b)(3)(i) shall apply to a variable yield bond that is not a tender bond only if the issuer elects to apply this paragraph (b)(3)(i) to the bond.

(ii) *Conversion to fixed yield issue.* Unless the issuer otherwise elects, a variable yield issue shall be treated as a fixed yield issue as of the first day of a yield period if the issue would be a fixed yield issue if issued on such day. Each bond that is part of the fixed yield issue shall be treated as if issued on such day for the amount that (but for this paragraph (b)(3)(ii)) would have been taken into account with respect to the bond on such day under paragraph (d)(2)(ii) or (d)(3)(ii) of this section (without regard to any accrued interest that would be taken into account under paragraph (d)(2)(ii)(A)). The preceding sentence shall not apply for purposes of paragraph (d) of this section. No issue payment taken into account with respect to the variable yield issue under paragraph (d) of this section shall be taken into account with respect to the fixed yield issue under paragraph (c) of this section. See paragraph (d)(4) of this section (Examples (9)–(11)).

(4) *Yield-to-call bond*—(i) *In general.* A yield-to-call bond shall be treated as if the lowest yield date were the final maturity date and the stated retirement price on the lowest yield date were the stated retirement price on the final maturity date. If a bond to which the preceding sentence applies is not retired on or before the lowest yield date, the bond shall be treated as if it were retired on such date for the stated retirement price on such date, and shall be treated as if issued on such date (as part of the same issue) for an issue price equal to such price (less any amount included in such price and paid to discharge principal or interest on such date). See paragraph (c)(7) of this section (Examples (4), (5), and (6)) for fixed yield bonds and paragraph (d)(4) of this section (Example (3)) for current index bonds.

(ii) *Yield-to-call bond.* The term "yield-to-call bond" means—

(A) Any bond that is part of a fixed yield issue if the yield-to-maturity on the bond is more than one-fourth of one percent higher than the lowest yield;

(B) Any fixed yield bond or current index bond that is part of a variable yield issue if the yield-to-maturity on the bond is more than one-sixteenth of one percent higher than the lowest yield; and

(C) Any variable yield bond (other than a current index bond) that is part of a variable yield issue if the yield-to-maturity on the bond is higher than the lowest yield;

determined without regard to paragraph (b)(3)(ii) and (b)(4)(i) of this section. Such term shall not include any tender bond. See § 1.150–1T (b)(7) and (b)(8) for definitions of tender bond and current index bond.

(5) *Bond yield*—(i) *In general.* The term "yield" means, with respect to a bond, the discount rate that when used in computing the present value of all the unconditionally payable payments of principal and interest and all the payments for a qualified guarantee paid and to be paid with respect to the bond produces an amount equal to the present value of the issue price of the bond. Present value is computed as of the date of issue of the bond. See § 1.148–8T(c) for definition of issue price (in general). For purposes of computing the yield, the stated retirement price of the bond on the assumed retirement date shall be treated as an unconditionally payable payment of principal and interest. If paragraph (b)(3) of this section applied to the bond, payments for a qualified guarantee with respect to the variable yield bond shall not be taken into account.

(ii) *Yield-to-maturity.* The term "yield-to-maturity" means, with respect to a bond, the yield on the bond determined by assuming the bond is retired on the final maturity date for the stated retirement price on such date. See § 1.150–1T(d)(1) for definition of final maturity date. See paragraph (b)(4)(i) of this section for special rules for yield-to-call bonds.

(iii) *Lowest yield.* The term "lowest yield" means, with respect to a bond, the yield on the bond determined by assuming the bond is retired on the lowest yield date for the stated retirement price on such date. The lowest yield date is the date that when used in computing the yield on the bond produces the lowest yield.

(6) *Retirement prices*—(i) *In general.* The term "retirement price" means, with respect to a bond, the amount paid in connection with the retirement or redemption of the bond.

(ii) *Stated retirement price*—(A) *In general.* The stated retirement price of a bond on a date is the lowest price at which the issuer or any ultimate obligor (or related person, as defined in section 147(a)(2)) has a right (under the terms of the bond or pursuant to a separate agreement or option entered into in connection with the issuance of the bond) to retire or redeem the bond as of such date.

(B) *Right to retire.* A person has a right to retire or redeem a bond as of a date even if the exercise of the right is subject to a contingency; provided that, a right to redeem a bond only in the event of a remote contingency shall not

be taken into account unless and until the remote contingency has occurred. An example of a remote contingency is the destruction or condemnation of facilities financed with proceeds of the issue of which the bond is a part. In no event shall any contingency related to the failure to spend proceeds of an issue be considered remote. See paragraph (d)(4) of this section (Example (3)).

(7) *Early retirement value*—(i) *In general.* Except as otherwise provided in this paragraph (b)(7), the early retirement value of a bond on any date is the lesser of—

(A) The present value of the bond on such date; and

(B) If the bond is part of a fixed yield issue (without regard to paragraph (b)(3)(ii) of this section) and the yield-to-maturity on the bond is higher than the lowest yield, the lowest stated retirement price (properly adjusted to take into account accrued interest) on any day during the period beginning one year before such date and ending 90 days after such date.

See paragraph (c)(7) of this section (Examples (1), (2), (4), (5), (7), and (9)) for fixed yield bonds and paragraph (c)(4) of this section (Examples (1)–(3)) for current index bonds.

(ii) *Tender bond.* The early retirement value of a tender bond on any date is the outstanding par amount of the bond on such date. See § 1.150–1T(b)(7) for definition of tender bond. See paragraph (d)(4) of this section (Examples (4)–(11)).

(iii) *Special rules for certain discount bonds subject to mandatory early redemption*—(A) *In general.* If the yield to maturity on a bond that is subject to mandatory early redemption (determined without regard to any payment for a qualified guarantee) is more than one fourth of one percent lower than the composite yield-to-maturity determined as provided in paragraph (b)(8)(ii)(B) of this section (but without regard to any payment for a qualified guarantee)—

(*1*) Paragraph (b)(8)(ii)(B) of this section shall not apply for purposes of determining the issue payments to be paid on the bond under paragraph (c) of this section or for purposes of determining the early retirement value of the bond under paragraph (d)(2)(i)(F)(*1*) and (d)(3)(i)(E) of this section;

(*2*) For purposes of determining the issue payments paid on the bond under paragraph (c) of this section, the early retirement value of the bond on the date the bond is retired shall not exceed an amount equal to the greater of (*i*) the retirement price of the bond; and (*ii*) the present value of the bond on the retirement date (determined without regard to paragraph (b)(8)(ii)(B) of this section);

(*3*) For purposes of determining the early retirement value of the bond under paragraph (d) of this section on the date the bond is retired, the early retirement value of the bond shall not exceed an amount: equal to the greater of (*i*) the retirement price of the bond less interest paid in connection with the retirement; and (*ii*) the present value of the bond on the retirement date (determined without regard to paragraph (b)(8)(ii)(B) of this section); and

(*4*) The early retirement value of the bond on the date the bond is retired may be determined without regard to paragraph (b)(8)(ii)(B) of this section if the bond is or was part of a variable yield issue.

See paragraph (c)(7) of this section (Example (9)).

(B) *Mandatory early redemption.* A bond is subject to mandatory early redemption if the final maturity date of the bond is not the earliest date on which the final payment of principal and interest on the bond is actually and unconditionally due (without regard to any unanticipated event or optional retirement). See § 1.150–1T(d)(1) and (d)(2) for definitions of final maturity date and actually and unconditionally due. Bonds evidenced by a single loan instrument and to which § 1.150–1T(d)(3) applies shall not be treated as subject to mandatory early redemption for purposes of paragraph (b)(7)(iii)(A) of this section.

(8) *Present value*—(i) *In general.* The present value of a bond on any date is the present value as of such date of all the unconditionally payable payments of principal and interest and all payments for a qualified guarantee to be paid on and after such date with respect to the bond. See § 1.148–6T(b)(5) for formula for determining present value. See paragraph (b)(8)(iii) of this section for approximate method for determining present value of certain bonds. See paragraph (b)(8)(iv) of this section for special present value for large fixed yield issues.

(ii) *Discount rate, etc*—(A) *In general.* For purposes of computing the present value of a bond, the yield-to-maturity on the bond shall be used as the discount rate, the bond shall be assumed to be retired on the final maturity date for the stated retirement price on such date, and the stated retirement price on such date shall be treated as an unconditionally payable payment of principal and interest on the bond.

(B) *Bonds subject to mandatory early redemption.* For purposes of applying paragraph (b)(8)(i) and (b)(8)(ii)(A) of this section to substantially identical bonds that are subject to mandatory early redemption.

(*1*) The composite yield-to-maturity on all such bonds shall be treated as the yield-to-maturity on each bond;

(*2*) The composite yield-to-maturity shall be determined by assuming the bonds are retired on the scheduled early retirement dates and by treating such dates as the final maturity dates; and

(*3*) The present value of each bond retired in satisfaction of a mandatory early redemption requirement shall be determined by treating the mandatory early redemption date (in satisfaction of which the bond is retired) as the final maturity date and the stated retirement price on such date as the stated retirement price on the final maturity date.

For purposes of this paragraph (b)(8)(ii)(B), the scheduled early retirement dates (and mandatory redemption dates) shall be determined on the basis of reasonable expectations as of the date of issue (if the dates are not fixed and determinable as of the date of issue). See paragraph (c)(7) of this section (Examples (7)–(10)).

(iii) *Approximate method*—(A) *In general.* If a bond is an eligible bond, the issuer may treat the outstanding par amount of the bond plus (if the bond is not a variable yield bond) unpaid accrued interest as of a date (including interest paid on such date) as the present value of the bond on such date. The preceding sentence shall not apply for purposes of paragraph (d)(3)(i)(E) of this section if there is unpaid accrued interest as of such date (not including interest paid on such date).

(B) *Eligible bond.* A bond is an eligible bond if—

(*1*) The issue price of the bond is par plus accrued interest on such par amount (if any) for the period that begins on a date that is less than one year before the date of issue and ends on the date of issue;

(*2*) All interest on the bond (other than such accrued interest) accrues on the outstanding par amount of the bond and is actually and unconditionally due at periodic intervals of one year or less;

(*3*) The first payment of interest on the bond (including such accrued interest) is due at the end of the first short compounding interval or at the end of the first whole compounding interval;

(*4*) The lowest stated retirement price of the bond is not less than the outstanding par amount of the bond plus accrued interest; and

(*5*) No payment for a qualified guarantee is taken into account with

respect to the bond (without regard to paragraph (b)(13)(ii)(D) of this section).

(iv) *Special present value for large fixed yield issues.* If the aggregate issue price of the bonds issued as part of a fixed yield issue is $35 million or more, the present value of the bonds that are part of the issue shall be determined by substituting "one sixteenth of one percent" for "one fourth of one percent" in paragraph (b)(4)(ii)(A) of this section.

(9) *Special rules for variable yield bonds.* For purposes of determining whether a variable yield bond (other than a tender bond) is a yield-to-call bond and for purposes of computing the yield on and present value and early retirement value of the bond—

(i) Any interest that is unconditionally payable but that does not accrue at a rate that is fixed and determinable as of the date of issue shall not be taken into account;

(ii) The interest described in paragraph (b)(9)(i) of this section shall be treated as unconditionally payable at a rate that is fixed and determinable as of the date of issue and shall be fixed and determined on the basis of the rate established by the interest index or other interest rate setting mechanism as of such date;

(iii) Payments for a qualified guarantee shall be taken into account only for purposes of determining whether the bond is a yield-to-call bond and shall be treated as level payments for such purpose; and

(iv) Interest that accrued on the bond on or before a date and that is payable on or after such date (including the interest treated as so accruing under paragraph (b)(9)(ii) of this section) shall not be taken into account in determining the present value of the bond on such date.

See paragraph (d)(4) of this section (Examples (1)–(3)).

(10) *Actually paid*—(i) *In general.* Payments of principal and interest on a bond that are unconditionally payable shall be treated as if paid on the date actually and unconditionally due if—

(A) The rebatable arbitrage (with regard to this paragraph (b)(10)) is lower than the rebatable arbitrage (without regard to this paragraph (b)(10));

(B) As of the date of issue, it is reasonably expected that all payments of principal and interest payable on the bond will be paid no later than the date actually and unconditionally due; and

(C) As of the date of issue, the holders of all bonds that are part of the issue are reasonably assured that sufficient funds will be available to fully retire the bonds (after reduction for any amount required to be paid under § 1.148–1T(b)(1)(i), determined without regard to this paragraph (b)(10)) in the event that none (or an insubstantial portion) of the proceeds of the issue are expended for a governmental purpose (not including the payment of the principal or interest on or the retirement price of any bond that is part of the issue).

The reasonable assurance must be predicated on a binding obligation (enforceable by or on behalf of the bondholders) of a person or persons with sufficient funds (and to the extent necessary the binding obligation must be enforced). See § 1.150–1T(d)(2) for definition of actually and unconditionally due.

(ii) *Unconditionally payable*—(A) *In general.* A payment of principal or interest on a bond is unconditionally payable if the amount of the payment and date the amount is actually and unconditionally due is fixed and determinable as of the date of issue. The determination under the preceding sentence shall be made without regard to unanticipated events and by assuming that no payment is paid before the latest date the payment is actually and unconditionally due.

(B) *Variable yield bonds.* Any payment of interest on a variable yield bond that is determined by reference to market interest rates (including by reference to any index of such rates) after the date of issue shall be treated as unconditionally payable if the payment would be unconditionally payable if the payment were determined by reference to interest rates that were fixed and determinable as of the date of issue.

(11) *Compounding interval*—(i) *Bond.* The compounding interval used in computing the yield on and the present value of a bond is the accrual period (within the meaning of section 1272 and the regulations thereunder) with respect to the bond.

(ii) *Issue.* The compounding interval used in computing the yield on an issue and the present value of amounts under paragraphs (c)(1) and (d)(1) of this section is the shortest accrual period (within the meaning of section 1272 and the regulations thereunder) with respect to any bond that is part of the issue.

(12) *Qualified guarantees*—(i) *In general.* The term "qualified guarantee" means, with respect to a bond, any guarantee of the bond if the guarantee meets each of the requirements of this paragraph (b)(12).

(ii) *Guarantee*—(A) *In general.* The term "guarantee" means, with respect to a bond, an unconditional and recourse obligation of a guarantor (enforceable by or on behalf of the holder of the bond) to pay all or part of any payment of principal or interest on the bond (or any payment of the tender price of the bond if the bond is a tender bond) that is actually and unconditionally due under the terms of the bond.

(B) *Secondary liability.* An obligation to pay shall not be treated as a guarantee unless—

(*1*) It is reasonably expected that the guarantor will not be called upon to make any payment under the guarantee (for which the guarantor will not be reimbursed immediately in cash); and

(*2*) The guarantor is entitled to be fully reimbursed immediately or upon commercially reasonable repayment terms (during a workout period that is not unreasonably long) for any payment under the guarantee.

In no event shall any hedging transaction described in section 1256(e)(2)(A) (i) or (ii) be treated as a guarantee. See paragraph (b)(14) of this section for treatment of hedging transactions.

(C) *Guarantor.* The term "guarantor" includes only—

(*1*) The United States (or any agency or instrumentality thereof, within the meaning of section 149(b));

(*2*) An entity that is not exempt from Federal income taxation and is either a bank (within the meaning of section 581 or 585(a)(2)(B)) or is rated in one of the two highest ("AA" or "AAA") categories for long-term debt by a nationally recognized rating agency; and

(*3*) A State insurance fund established before May 15, 1989, but only with respect to guarantees of obligations of persons other than State or local government units and of the type guaranteed by such fund before such date.

Such term shall not include any person that is to use 20 percent or more of the proceeds of the issue of which the bond is a part for a private business use (within the meaning of section 141(b)(6)) or a person related to such a person (within the meaning of section 144(a)(3)).

(D) *Risk shifting.* An obligation to pay shall be treated as a guarantee only to the extent that the obligation shifts ultimate credit risk with respect to the issue. An obligation to pay does not shift ultimate credit risk with respect to an issue to the extent that the guarantor or a person related to the guarantor (within the meaning of section 144(a)(3)) is obligated to pay any amount that is taken into account with respect to the issue under section 141(b)(2). For purposes of this paragraph (b)(12)(ii)(D), any person that owns a share of the beneficial ownership interests of another person shall be treated as

owning a proportionate share of the beneficial ownership interests owned by such other person, any person a share of the beneficial ownership interests of which is owned by another person shall be treated as owning a proportionate share of the beneficial ownership interests owned by such other person, and any obligation to pay shall be treated as the obligation of any person that owns a proportionate share of the beneficial ownership interests of the obligor and of any person a proportionate share of the beneficial ownership interests of which is owned by the obligor in the same proportion as the proportionate share so owned. For purposes of the preceding sentence, proportionate shares shall be determined on the basis of fair market value, and no share shall be taken into account that is less than 10 percent of the total.

(E) *Form of guarantee.* A guarantee may be in the form of an insurance policy, surety bond, irrevocable letter or line of credit, or standby purchase agreement. A guarantee of the principal and interest on a bond may be in the form of a recourse loan to the guarantor if the loan is in substance a guarantee of the bond. A loan is not in substance a guarantee unless the terms of the loan and bond are substantially identical (without regard to any discrepancy in payment dates of no more than 15 business days).

(iii) *Reasonable charge.* A guarantee of a bond does not meet the requirements of this paragraph (b)(12) if the payments for the guarantee of the bond exceed a reasonable charge for the transfer of credit risk. In determining whether this requirement is met, there shall be taken into account payments charged by guarantors in comparable transactions (including transactions in which the guarantor has no involvement other than as a guarantor). In no event shall this requirement be considered met unless the present value of such payments is less than the present value of the interest to be saved as a result of the guarantee. Present value is computed by using the yield-to-maturity on the bond (with regard to payments for the guarantee) as the discount rate.

(iv) *Nonguarantee element*—(A) *In general.* A guarantee of a bond does not meet the requirements of this paragraph (b)(12) if any payment denominated as a payment for the guarantee or taken into account by the issuer as a payment for a qualified guarantee with respect to the bond includes direct or indirect payment for a cost, risk, or other element that is not customarily borne by guarantors of tax-exempt bonds (in transactions in which the guarantor has no involvement other than as a guarantor).

(B) *Nonguarantee charges must be separately stated.* A guarantee shall not be treated as meeting the requirements of paragraph (b)(12)(iv)(A) of this section if the guarantor (or a related person within the meaning of section 147(a)(2)) provides any nonguarantee service(s) the fee(s) for which are not separately stated. The preceding sentence shall not apply to any guarantee entered into on or before June 14, 1989.

(C) *Examples.* The following are examples of payments that include a nonguarantee element:

(*1*) Payments for the guarantee of the tender price of tender bonds include indirect payment for a noncustomary cost (the cost of remarketing the bonds) if the issuer or an ultimate obligor (or its agent) is not required to use best efforts to remarket bonds that are tendered for purchase and not retired.

(*2*) Payments for a guarantee include indirect payment for a noncustomary risk if the guarantor is not reasonably assured that sufficient funds will be available to fully retire the bonds (after reduction for any amount required to be paid under § 1.148–1T(b)(1)(i), determined without regard to any payment for any qualified guarantee) in the event that none (or an insubstantial portion) of the proceeds of the issue are expended for a governmental purpose (not including the payment of the principal or interest on or the retirement price of any bond that is part of the issue). The reasonable assurance must be predicated on a binding obligation (enforceable by the guarantor) of a person or persons with sufficient funds (and to the extent necessary the binding obligation must be enforced).

(*3*) Payments for a guarantee include a nonguarantee element if the issuer is entitled to a refund in the event a guaranteed bond is retired before the final maturity date, and the amount of the refund exceeds the unearned portion of the payments for the guarantee.

(*4*) If a guarantee is in the form of a loan to the guarantor, payments to the guarantor include a nonguarantee element if the payment for any nonguarantee service performed by the guarantor does not fully and adequately compensate the guarantor for such service (or any portion of such payment is taken into account as a payment for a qualified guarantee). For purposes of determining whether the guarantor is fully and adequately compensated for such a service, the payments for the service are compared to payments that would be charged for the service if the service was performed by a person other than a guarantor.

(*5*) Payments to a guarantor of a revenue bond include a nonguarantee element if the property securing the bond normally would be insured against certain risks and the guarantee is used to replace such insurance. For example, if a bond is secured solely by a multifamily housing project and the revenues derived therefrom, and the project is not insured against any fire damage, payments to the guarantor of the bond would include a nonguarantee element. Similarly, payments to the guarantor of a qualified mortgage bond would include a nonguarantee element if the mortgage loans securing the bond did not satisfy minimum underwriting standards.

(v) *Purpose investment bond guarantee.* A guarantee of the principal or interest on an eligible purpose investment shall be treated as a guarantee of the related payments of principal or interest on bonds that are part of an issue and as if paid for a guarantee with respect to such bonds if (and only if)—

(A) All payments of principal and interest on the purpose investment that are original proceeds of the issue coincide (in all events) with payments on such bonds; and

(B) All such payments on the purpose investment (and all related payments under the guarantee) are at all times pledged unconditionally and exclusively to the payment of principal and interest on such bonds (without regard to any bond after the bond is legally defeased).

See paragraph (b)(12)(vi) of this section for when payments coincide. See paragraph (b)(12)(vii) of this section for special rule for parity issues. See paragraph (b)(12)(viii) of this section for definition of eligible purpose investment.

(vi) *When payments coincide.* For purposes of paragraph (b)(12)(v)(A) of this section—

(A) Regularly scheduled payments of interest on a purpose investment and a bond coincide if the payments are actually and unconditionally due during the same compounding interval used in computing the yield on the bond, determined by taking into account only payments of interest on the bond;

(B) Regularly scheduled payments of principal of a purpose investment and a bond coincide if the payments are actually and unconditionally due during the same compounding interval used in computing the yield on the bond, determined by taking into account only payments of principal of the bond; and

(C) Other payments on a purpose investment and a bond coincide if the payments on the bond are actually and unconditionally due no later than one month after the payments on the purpose investment.

In applying this paragraph (b)(12)(vi) to an issue, there shall not be taken into account any discrepancy of no more than one month, or any amount less than $250,000 that is required to be used to redeem bonds no later than the first available call date.

(vii) *Special rule for parity issues.* Payments on a purpose investment (and related payments under a guarantee) shall not be treated as failing to meet the requirement of paragraph (b)(12)(v)(B) of this section that such payments are pledged exclusively to the payment of principal or interest on bonds that are part of the issue solely by reason of the fact the payments are pledged to the payment of principal and interest on bonds that are part of one or more other issues if—

(A) The issue and all the other issues to which the payments are pledged are issued by the same issuer pursuant to the same master resolution or indenture;

(B) All bonds issued under the master resolution or indenture are equally and ratably secured at all times (without regard to any bond after the bond is legally defeased);

(C) Original proceeds of the issues of which such bonds are a part may be used only to make or finance purpose investments that are unconditionally and exclusively pledged to the payment of such bonds and guaranteed by the same guarantor (and to pay administrative expenses relating to the financing of such purpose investments); and

(D) The payments on the purpose investment are not guaranteed by the guarantor to any lesser extent than the payments on any purpose investment financed with original proceeds of any of the other issues.

(viii) *Eligible purpose investment.* The term "eligible purpose investment" means, with respect to an issue, any purpose investment (or portion thereof) that is allocated to sale proceeds of the issue (including sale proceeds allocated to the refunding portion of a refunding issue) if—

(A) The investment is an obligation that is not a student loan or for the financing of an owner-occupied residence; and

(B) The yield on the investment is not reasonably expected to be materially higher than the yield on the issue (within the meaning of § 1.103–13(b)(5)(i)(A)) but determined—

(*1*) Without regard to any other purpose investment and without regard to any payment for a guarantee of any other purpose investment; and

(*2*) Except as otherwise provided in paragraph (b)(12)(ix)(A) of this section, by taking into account payments for the guarantee of the purpose investment as interest on the issue and as interest on the purpose investment and not as administrative costs for purposes of § 1.103–13(c)(5).

(ix) *Transition rule.* The requirements of paragraph (b)(12)(viii)(B) of this section shall be treated as satisfied with respect to a purpose investment acquired on or before June 14, 1989, if the requirements are satisfied determined by taking into account—

(A) Payments for the guarantee of the purpose investment as administrative costs for purposes of § 1.103–13(c)(5) and not as interest on the issue; and

(B) Any amendment to the terms of the purpose investment no later than the first date after June 14, 1989, that any amount with respect to the issue is paid or required to be paid to the United States under § 1.148–1T(b)(1).

(13) *Special rules for guarantee payments*—(i) *Allocation to bonds*—(A) *Level payments.* A level payment for a guarantee shall be allocated to the bond to which the level payment properly relates.

(B) *Nonlevel payments.* Nonlevel payments for a guarantee shall be allocated to bonds in a manner that properly reflects the proportionate credit risk for which the guarantor is compensated. In the case of identical bonds (including bonds subject to mandatory early redemption), the proportionate credit risk with respect to each bond is the same. The proportionate credit risk with respect to bonds that are not identical shall be determined by reference to the proportionate interest reduction resulting from the guarantee (determined on a present value basis and with adjustments, if necessary, to take into account any level payments); provided that, in the case of bonds that are not readily marketable without a guarantee and for which the proportionate interest reduction cannot reasonably be estimated in such a way as to properly reflect the proportionate credit risk, the proportionate credit risk shall be determined by use of a reasonable method that properly reflects such risk.

(ii) *Special rules for variable yield bonds*—(A) *Level payments.* Level payments allocated to a variable yield bond shall be treated as paid when paid (but not earlier than when actually due). See paragraph (d)(4) of this section (Examples (4)–(11)). For purposes of this paragraph (b)(13)(ii), all payments for a guarantee allocated to a bond shall be treated as level payments if all such payments are paid during a single yield period, the bond is outstanding only during such yield period, and the bond is not retired before the final maturity date of the bond. See paragraph (c)(7) of this section (Example (11)).

(B) *Nonlevel payments.* Nonlevel payments allocated to a variable yield bond shall be treated as paid on the first day of each bond year. The amount treated as paid on the first day of each bond year (other than a short bond year) shall be the constant payment amount. The amount treated as paid on the first day of each short bond year shall be the product of the constant payment amount, and the fraction of a full year represented by the short bond year. See paragraph (d)(4) of this section (Examples (4)–(11)).

(C) *Early retirement.* If a variable yield bond is retired before the final maturity date, no payment for a guarantee shall be treated as paid with respect to the bond after the retirement date, and the amount or amounts treated as paid on any day during the 1-year period immediately preceding the retirement date (without regard to this sentence) shall not be treated as paid to the extent properly allocable to the period during which the bond is retired. For example, the constant payment amount treated as paid on the first day of the bond year during which the bond is retired is the product of the constant payment amount that would be treated as paid if the bond were not retired, and the fraction representing the portion of the bond year during which the bond is not retired. See paragraph (d)(4) of this section (Examples (6) and (10)).

(D) *Conversion to fixed yield bond.* If a fixed yield bond was a variable yield bond, amounts paid for a qualified guarantee with respect to the variable yield bond shall be treated as paid with respect to the fixed yield bond in the manner provided in this paragraph (b)(13)(ii) for purposes of paragraphs (c) and (d) of this section. See paragraph (d)(4) of this section (Examples (9)–(11)).

(iii) *Definitions and special rules.* For purposes of this paragraph (b)(13)—

(A) *Level payment.* A payment for a qualified guarantee of a bond is a level payment if—

(*1*) The payment is one of a series of payments with respect to the bond;

(*2*) Each payment in the series is the same percentage of the outstanding amount of the bond plus accrued interest for a period of no longer than

one year, determined as of the date the payment is calculated;

(3) Each payment in the series is due no earlier than one year before and no later than one year after the date the payment is calculated; and

(4) The series of payments are due at periodic intervals (properly adjusted to take into account any short interval) and at least one payment is due each bond year while the guarantee of the bond is in effect.

The accrued interest referred to in paragraph (b)(13)(iii)(A)(2) may be based on a hypothetical interest rate (but not at a rate above a reasonable maximum rate) if the method of calculating such interest does not vary and is not designed to front-load or back-load payments. See paragraph (d)(4) of this section (Examples (4) and (7)).

(B) *Nonlevel payment.* Any payment for a qualified guarantee of a bond that is not a level payment is a nonlevel payment.

(C) *Constant payment amount.* The constant payment amount, with respect to a variable yield bond, is equal to the present value of all the nonlevel payments for a qualified guarantee allocated to the bond, divided by the present value of all the nominal amounts paid on the first day of each bond year while the guarantee of the bond is in effect (without regard to any retirement of the bond before the final maturity date). The nominal amount paid on the first day of each bond year (other than a short bond year) is $1. The nominal amount paid on the first day of a short bond year is the product of $1, and the fraction of a full year represented by the short bond year. Present value is computed as of the first day the guarantee is in effect by using as the discount rate the composite yield on all the variable yield bonds to which the nonlevel payments relate (determined with regard to level payments but without regard to any nonlevel payment and by applying rules similar to the rules in paragraph (d) of this section) during the period beginning on the first day the guarantee is in effect and ending on the last day of the first yield period that is at least one full year during which the guarantee is in effect (not taking into account any period after which the guarantee is no longer in effect). For purposes of the preceding sentence, the yield period for a fixed yield issue shall be the period determined under paragraph (b)(2)(ii)(A) of this section. See paragraph (d)(4) of this section (Examples (4)–(11)).

(D) *Bond year.* The first bond year shall be treated as beginning on the first day the guarantee of the bond is in effect, and the last bond year shall be treated as ending on the last day the guarantee of the bond is in effect (without regard to any retirement of the bond before the final maturity date). Any bond year that is less than 12 full months is a short bond year.

(E) *Aggregation rule.* All guarantees with respect to variable yield bonds that are part of the same issue and are entered into with the same guarantor (or a related person within the meaning of section 144(a)(3)) on or before the first computation date shall be treated as one guarantee. The preceding sentence shall not apply to guarantees that are not in effect and are not entered into within one year of each other.

(14) *Certain hedging transactions.* [Reserved]

(c) *Computation of yield on fixed yield issue*—(1) *General rule.* The yield on a fixed yield issue as of any computation date is the discount rate that produces the same present value when used in computing—

(i) *Issue payments.* The present value of all the issue payments paid and to be paid in connection with the bonds that are part of the issue; and

(ii) *Issue prices.* The present value of all the issue prices of the bonds that are part of the issue.

Present value is computed as of the date of issue of the fixed yield issue. See § 1.148–8T(b)(5) for formula for determining present value. See paragraph (c)(2) of this section for determination of issue payments paid. See paragraph (c)(3) of this section for determination of issue payments to be paid. See paragraph (c)(4) of this section for special rule for small issues. See paragraph (c)(5) of this section for transition rule for fixed yield issues. See paragraph (c)(6) of this section for special rules for transitioned variable yield bonds. See paragraph (b) of this section for definitions and special rules.

(2) *Determination of issue payments paid.* For purposes of this paragraph (c), the issue payments paid as of any computation date in connection with the fixed yield bonds that are part of a fixed yield issue are—

(i) *Principal and interest.* Any amounts paid on or before the computation date to discharge principal or interest on the bonds (not including the retirement price or any amount taken into account in computing the early retirement value of a bond on the retirement date);

(ii) *Qualified guarantee.* Any amounts paid on or before the computation date for a qualified guarantee with respect to the bonds (not including any amount taken into account in computing the early retirement value of the bond on the retirement date);

(iii) *Early retirement value.* If any bond is retired before the final maturity date and on or before the computation date, an amount equal to the early retirement value of the bond on the retirement date; and

(iv) *Retirement price.* If any bond is retired on the final maturity date and on or before the computation date, an amount equal to the retirement price of the bond.

(3) *Determination of issue payments to be paid.* For purposes of this paragraph (c), the issue payments to be paid as of any installment computation date in connection with the bonds that are part of a fixed yield issue shall be determined—

(i) *Scheduled early retirements.* By assuming that bonds are retired on the scheduled early retirement date if—

(A) Bonds are subject to mandatory early redemption or are to be retired before the final maturity date pursuant to a binding obligation that exists on the computation date; or

(B) Bonds are to be retired before the final maturity date with proceeds of a refunding issue issued on or before the computation date.

(ii) *Optional retirements.* Except as otherwise provided in paragraph (c)(3)(i) of this section, by assuming that bonds are retired on the final maturity date for the stated retirement price on such date.

(4) *Special rule for small issues*—(i) *In general.* Unless the issuer otherwise elects, the yield on an eligible small issue shall be the yield on the issue determined by treating the date of issue as the only computation date if—

(A) The issue is a fixed yield issue (without regard to paragraphs (b)(1)(ii) and (b)(3)(ii) of this section);

(B) As of the date of issue, it is reasonably expected that no bond that is part of the issue would be an arbitrage bond (as defined in section 148(a), but without regard to section 148(d)(3)) if all the proceeds of the issue (exclusive of amounts reasonably set aside to pay any amount required to be paid with respect to the issue under § 1.148–1T(b)(1)(i)) to be used to acquire investments (other than purpose investments) were used to acquire higher yielding investments (as defined in section 148(b)(1));

(C) At least 75 percent of the net sale proceeds are allocated to expenditures (other than expenditures for the payment of the principal or interest on or the retirement price of any bond) no later than the date that is 3 years after

the date of issue (and no later than the final computation date); and

(D) No hedging transaction to which paragraph (b)(14) of this section applies is entered into with respect to the issue which would increase the rebatable arbitrage if taken into account in computing the yield on the issue.

See paragraph (c)(7) of this section (Examples (3), (6), (8), and (10)). See § 1.148-8T(d)(6) for expenditure of net sale proceeds.

(ii) *Eligible small issue*—(A) *In general.* For purposes of paragraph (c)(4)(i) of this section, an issue is an eligible small issue if the aggregate issue price of the bonds issued as part of the issue does not exceed $5 million.

(B) *Certain governmental issues.* Paragraph (c)(4)(ii)(A) of this section shall be applied by substituting "$10 million" for "$5 million" if—

(*1*) No bond issued as part of the issue is a private activity bond; and

(*2*) The aggregate issue price of all tax-exempt bonds (other than private activity bonds) issued by the issuer during the calendar year in which the issue is issued and during the immediately preceding calendar year does not exceed $30 million.

For purposes of paragraph (c)(4)(ii)(B)(*2*), an issuer and all entities that issue bonds on behalf of the issuer shall be treated as one issuer.

(5) *Transition rule for fixed yield issues.* Unless the issuer otherwise elects, the yield on an issue shall be the yield on the issue determined by treating the date of issue as the only computation date if—

(i) The issue is a fixed yield issue (without regard to paragraphs (b)(1)(ii) and (b)(3)(ii) of this section);

(ii) The issue is sold on or before May 15, 1989, and issued on or before June 14, 1989;

(iii) At least 25 percent of the net sale proceeds are allocated to expenditures (other than expenditures for the payment of the principal or interest on or the retirement price of any bond) no later than the date that is 3 years after the date of issue (and no later than the final computation date); and

(iv) No hedging transaction to which paragraph (b)(14) of this section applies is entered into with respect to the issue which would increase the rebatable arbitrage if taken into account in computing the yield on the issue.

See paragraph (c)(7) of this section (Examples (3), (6), (8), and (10)). See § 1.148-8T(d)(6) for expenditure of net sale proceeds.

(6) *Special rules for transitioned variable yield bonds.* For purposes of this paragraph (c)—

(i) *Issue payments paid.* The provisions of paragraph (d)(2) of this section shall apply in determining the issue payments paid as of any computation date in connection with the variable yield bonds that are part of a fixed yield issue. For purposes of applying such provisions, the yield period for the issue shall begin on the date of issue and end on the final computation date.

(ii) *Issue payments to be paid.* The issue payments to be paid as of any installment computation date in connection with the variable yield bonds that are part of a fixed yield issue shall be determined by assuming that market interest rates in effect on the computation date do not later change, and that no discretionary action is taken after the computation date to affect the interest rate on (or any other term of) the bonds.

(iii) *Tender bond remarketing.* The provisions of paragraph (d)(2)(ii)(A) of this section shall apply in determining the issue price to be taken into account under paragraph (c)(1)(ii) of this section when a tender bond is remarketed.

See paragraph (c)(7) of this section (Example (11)).

(7) *Examples.* The following examples illustrate the application of this paragraph (c):

Example (1). (i) On March 1, 1988, City A issues an issue consisting of identical fixed yield bonds. The final maturity date of each bond is July 1, 1998. Interest is payable on July 1 of each year at a rate of 10 percent per annum on the outstanding principal amount. The aggregate principal amount of the bonds is $20 million. The aggregate issue price of the bonds (determined under § 1.148-8T(c)) is $21,333,333.33 (including $1,333,333.33 for accrued interest from July 1, 1987 to March 1, 1988). The bonds are subject to optional redemption on July 1, 1994 at 103 percent of par plus accrued interest, and on July 1 of any year thereafter at par plus accrued interest. The issuer elected under paragraph (c)(5) of this section not to apply the transition rule for fixed yield issues.

(ii) All the bonds are outstanding on the first installment computation date (7/01/92). The yield on the issue as of the first installment computation date is 9.983 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (9.9830505029 percent)
7/01/88	$2,000,000.00	$1,937,558.13
7/01/89	2,000,000.00	1,761,687.94
7/01/90	2,000,000.00	1,601,781.30
7/01/91	2,000,000.00	1,456,389.23
7/01/92	2,000,000.00	1,324,194.25
7/01/93	2,000,000.00	1,203,998.47
7/01/94	2,000,000.00	1,094,712.75
7/01/95	2,000,000.00	995,346.78
7/01/96	2,000,000.00	905,000.15
7/01/97	2,000,000.00	822,854.20
7/01/98	22,000,000.00	8,229,810.13
PV Issue Prices (3/01/88)		$21,333,333.33

See paragraph (c)(2)(i), (c)(2)(iv), and (c)(3)(ii) of this section. The bonds are not yield-to-call bonds because the yield-to-maturity on the bonds (9.983%, the same as the yield on the issue to maturity computed above) is not more than one-fourth of one percent higher than the lowest yield on the bonds (9.979%, the same as the yield on the issue to the first par call date computed in subdivision (iii) below). See paragraph (b)(4)(ii)(A), (b)(5)(ii), and (b)(5)(iii) of this section.

(iii) All the bonds are redeemed on July 1, 1995 at par plus accrued interest ($22 million). The aggregate issue payment taken into account as of July 1, 1995 is the aggregate early retirement value of the bonds on July 1, 1995. See paragraph (c)(2)(iii) of this section. Since the yield-to-maturity on the bonds is higher than the lowest yield, the aggregate early retirement value of the bonds is the lesser of the aggregate present value of the bonds on July 1, 1995, and the lowest aggregate stated retirement price of the bonds at any time during the period beginning July 1, 1994 and ending September 29, 1995 (par plus accrued interest). See paragraph (b)(7)(i) of this section. The aggregate present value of the bonds on July 1, 1995 determined by using the exact method is $22,008,457.83, computed as follows:

Date	Payments	PV (9.983 percent)
7/01/95	$2,000,000.00	$2,000,000.00
7/01/96	2,000,000.00	1,818,462.85
7/01/97	2,000,000.00	1,653,403.57
7/01/98	22,000,000.00	16,536,591.40
PV (7/01/95)		22,008,457.83

See paragraph (b)(8)(i) of this section. The aggregate present value of the bonds determined by using the approximate method is par plus accrued interest ($22 million), which is lower. See paragraph (b)(8)(iii) of this section. Since the lowest aggregate stated retirement price of the bonds during the relevant period ($22 million) is lower than the aggregate present value of the bonds on July 1, 1995 ($22,008,457.83), the aggregate issue payment taken into account on July 1, 1995 is $22 million. See paragraphs (b)(7)(i) and (c)(2)(iii) of this section. The yield on the issue as of the final computation date (7/01/95) is 9.979 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (9.9788917222 percent)
7/01/88	$2,000,000.00	$1,937,582.56
7/01/89	2,000,000.00	1,761,776.76
7/01/90	2,000,000.00	1,601,922.64

Date	Issue payments	PV (9.9788917222 percent)
7/01/91	2,000,000.00	1,456,572.81
7/01/92	2,000,000.00	1,324,411.25
7/01/93	2,000,000.00	1,204,241.31
7/01/94	2,000,000.00	1,094,974.95
7/01/95	22,000,000.00	10,951,851.06
PV Issue Prices (3/01/88)		21,333,333.33

See paragraphs (c)(2)(i) and (c)(2)(iii) of this section.

Example (2). The facts are the same as in Example (1), except that all the bonds are retired on September 15, 1991, for $17.5 million. Since the bonds are not subject to redemption at any time during the period beginning September 15, 1990, and ending December 14, 1991, the aggregate early retirement value of the bonds on September 15, 1991, is the aggregate present value of the bonds on that date. See paragraph (b)(7)(i) of this section. The aggregate present value of the bonds on September 15, 1991, determined by using the exact method is $20,411,935.28, computed as follows:

Date	Payments	PV (9.983 percent)
7/01/92	$2,000,000.00	$1,854,381.70
7/01/93	2,000,000.00	1,686,062.12
7/01/94	2,000,000.00	1,533,020.67
7/01/95	2,000,000.00	1,393,670.57
7/01/96	2,000,000.00	1,267,350.92
7/01/97	2,000,000.00	1,152,315.29
7/01/98	22,000,000.00	11,524,934.01
PV (9/15/91)		20,411,935.28

See paragraph (b)(8)(i) of this section. The aggregate present value of the bonds determined by using the approximate method is par plus accrued interest ($20,411,111.11), which is lower. See paragraph (b)(8)(iii) of this section. The yield on the issue as of the final computation date (9/15/91) is 9.983 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (9.9831105266 percent)
7/01/88	$2,000,000.00	$1,937,557.78
7/01/89	2,000,000.00	1,761,686.66
7/01/90	2,000,000.00	1,601,779.26
7/01/91	2,000,000.00	1,456,386.58
9/15/91	20,411,935.28	14,575,923.05
PV issue prices (3/01/88)		21,333,333.33

See paragraph (c)(2)(i) and (c)(2)(iii) of this section.

Example (3). The facts are the same as in Examples (1) and (2), except that the transition rule for fixed yield issues applies. The yield on the issue for purposes of computing the rebatable arbitrage as of each computation date is the yield on the issue determined by treating the date of issue as the only computation date. See paragraph (c)(5) of this section. This yield (9.983%) is the same as the yield computed as of the first installment computation date in Example (1)(ii) when all the bonds were outstanding.

Example (4). (i) On July 1, 1988, City A issues an issue consisting of two fixed yield bonds. The final maturity dates of the bonds are July 1, 2003 (the "2003 bond") and July 1, 2008 (the "2008 bond"). Interest on the 2003 bond is payable on July 1 of each year at a rate of 8 percent per annum on the outstanding principal amount. The principal amount of the 2003 bond is $10 million. The issue price of the 2003 bond is $11 million (including $1 million issue premium). The 2003 bond is subject to optional redemption on or after July 1, 1998, at par ($10 million) plus accrued interest. Interest on the 2008 bond is payable on July 1 of each year at a rate of 10 percent per annum on the outstanding principal amount. The principal amount and issue price of the 2008 bond are $10 million. The 2008 bond is subject to optional redemption on or after July 1, 1998, at 103 percent of par ($10.3 million) plus accrued interest. The issuer elected under paragraph (c)(5) of this section not to apply the transition rule for fixed yield issues.

(ii) The 2003 bond is a yield-to-call bond, because the yield-to-maturity (6.908%) is more than one-fourth of one percent higher than the lowest yield (6.602%). See paragraph (b)(4)(ii)(A) of this section. The yield-to-maturity and lowest yield are computed as follows:

Date	Payments	PV (6.9083976673 percent)
7/01/89	$800,000.00	$748,304.17
7/01/90	800,000.00	699,948.92
7/01/91	800,000.00	654,718.37
7/01/92	800,000.00	612,410.61
7/01/93	800,000.00	572,836.77
7/01/94	800,000.00	535,820.18
7/01/95	800,000.00	501,195.59
7/01/96	800,000.00	468,808.44
7/01/97	800,000.00	438,514.14
7/01/98	800,000.00	410,177.45
7/01/99	800,000.00	383,671.87
7/01/00	800,000.00	358,879.08
7/01/01	800,000.00	335,688.39
7/01/02	800,000.00	313,996.28
7/01/03	10,800,000.00	3,965,029.74
Issue price		11,000,000.00

Date	Payments	PV (6.6022869808 percent)
7/01/89	$800,000.00	$750,452.94
7/01/90	800,000.00	703,974.52
7/01/91	800,000.00	660,374.69
7/01/92	800,000.00	619,475.16
7/01/93	800,000.00	581,108.70
7/01/94	800,000.00	545,118.42
7/01/95	800,000.00	511,357.15
7/01/96	800,000.00	479,686.85
7/01/97	800,000.00	449,978.01
7/01/98	10,800,000.00	5,698,473.55
Issue price		11,000,000.00

See paragraph (b)(5)(ii) and (b)(5)(iii) of this section. The 2003 bond is treated as if the lowest yield date (7/01/98) were the final maturity date, the stated retirement price on such date ($10.8 million) were the stated retirement price on the final maturity date, and the yield-to-maturity were the lowest yield (6.602%). See paragraph (b)(4)(i) of this section.

(iii) Both bonds are outstanding on the first installment computation date (7/01/93). The yield on the issue as of the first installment computation date is 8.554 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (8.5542432566 percent)
7/01/89	$1,800,000.00	$1,658,157.20
7/01/90	1,800,000.00	1,527,491.83
7/01/91	1,800,000.00	1,407,123.10
7/01/92	1,800,000.00	1,296,239.61
7/01/93	1,800,000.00	1,194,093.91
7/01/94	1,800,000.00	1,099,997.45
7/01/95	1,800,000.00	1,013,315.94
7/01/96	1,800,000.00	933,465.07
7/01/97	1,800,000.00	859,906.57
7/01/98	11,800,000.00	5,192,947.90
7/01/99	1,000,000.00	405,401.32
7/01/00	1,000,000.00	373,455.06
7/01/01	1,000,000.00	344,026.22
7/01/02	1,000,000.00	316,916.42
7/01/03	1,000,000.00	291,942.91
7/01/04	1,000,000.00	268,937.36
7/01/05	1,000,000.00	247,744.68
7/01/06	1,000,000.00	228,222.01
7/01/07	1,000,000.00	210,237.76
7/01/08	11,000,000.00	2,130,377.67
PV issue prices (7/01/88)		21,000,000.00

See paragraphs (b)(4)(i), (c)(2)(i), (c)(2)(iv), and (c)(3)(ii) of this section.

(iv) The 2003 yield-to-call bond is retired on July 1, 1994. The present value of the 2003 yield-to-call bond on July 1, 1994, is $11,277,818.08, computed as follows:

Date	Payments	PV (6.602 percent)
7/01/94	$800,000.00	$800,000.00
7/01/95	800,000.00	750,454.96
7/01/96	800,000.00	703,978.31
7/01/97	800,000.00	660,380.03
7/01/98	10,800,000.00	8,363,004.77
PV (7/01/94)		11,277,818.08

See paragraph (b)(4)(i) and (b)(8)(i) of this section. The 2008 bond is redeemed on July 1, 1998 for 103 percent of par plus accrued interest ($11.3 million). The present value of the 2008 bond on July 1, 1998 is par plus accrued interest ($11 million). See paragraph

(b)(8) of this section. In the case of both bonds, the yield-to-maturity is not higher than the lowest yield (and the present value is not higher than the stated retirement price). Accordingly, the early retirement value of each bond is the present value. See paragraph (b)(7)(i) of this section. The yield on the issue as of the final computation date (7/01/98) is 8.542 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (8.5424831007 percent)
7/01/89	$1,800,000.00	$1,658,336.85
7/01/90	1,800,000.00	1,527,822.85
7/01/91	1,800,000.00	1,407,580.52
7/01/92	1,800,000.00	1,296,801.47
7/01/93	1,800,000.00	1,194,740.93
7/01/94	12,277,818.08	7,507,972.59
7/01/95	1,000,000.00	563,380.40
7/01/96	1,000,000.00	519,041.38
7/01/97	1,000,000.00	478,191.91
7/01/98	11,000,000.00	4,846,131.10
PV issue prices (7/01/88)		21,000,000.00

See paragraph (c)(2)(i) and (c)(2)(iii) of this section.

Example (5). The facts are the same as in Example (4), except that the 2003 bond is retired on July 1, 2000, and the 2008 bond is retired on July 1, 2001. Since the 2003 bond is outstanding after the lowest yield date (7/01/98), the 2003 bond is treated as if it were retired for $10.8 million (the stated retirement price on such date) and reissued on the same date (as part of the same issue) for $10 million (the stated retirement price less the interest payable on such date). See paragraph (b)(4)(i) of this section. The early retirement value of each bond is the present value. See paragraph (b)(7)(i) of this section. The present value of the reissued 2003 bond on July 1, 2000 is $10.8 million. See paragraph (b)(8)(i) of this section. The present value of the 2008 bond on July 1, 2001 is $11 million. See paragraph (b)(8) of this section. The yield on the issue as of the final computation date (7/01/01) is 8.363 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (8.3629495686 percent)
7/01/89	$1,800,000.00	$1,661,084.35
7/01/90	1,800,000.00	1,532,889.57
7/01/91	1,800,000.00	1,414,588.27
7/01/92	1,800,000.00	1,305,416.91
7/01/93	1,800,000.00	1,204,670.89
7/01/94	1,800,000.00	1,111,699.98
7/01/95	1,800,000.00	1,025,904.14
7/01/96	1,800,000.00	946,729.62
7/01/97	1,800,000.00	873,665.42
7/01/98	11,800,000.00	5,285,350.95
7/01/98	(10,000,000.00)	(4,479,110.97)
7/01/99	1,800,000.00	744,018.12
7/01/00	11,800,000.00	4,501,032.97
7/01/01	11,000,000.00	3,872,059.79
PV issue prices (7/01/88)		21,000,000.00

See paragraphs (b)(4)(i), (c)(2)(i), and (c)(2)(iii) of this section. In the above computation, the $10 million issue price of the 2003 bond on July 1, 1998 is taken into account as a negative issue payment on that date. The result would be the same if the negative issue payment were not taken into account, and the present value of the issue prices on July 1, 1988 included the present value of the $10 million issue price of the 2003 bond. The result also would be the same if neither the retirement nor the reissuance of the 2003 bond on July 1, 1998 was taken into account.

Example (6). The facts are the same as in Examples (4) and (5), except that the transition rule for fixed yield issues applies. The yield on the issue for purposes of computing the rebatable arbitrage as of each computation date is the yield on the issue determined by treating the date of issue as the only computation date. See paragraph (c)(5) of this section. This yield (8.554%) is the same as the yield computed as of the first installment computation date in Example (4)(iii) when all the bonds were outstanding.

Example (7). (i) On July 1, 1988, City B issues an issue consisting of five fixed yield bonds. The final maturity date of each bond is July 1, 1998. Interest on the bonds is payable on July 1 of each year at a rate of 7 percent per annum on the outstanding principal amount. The principal amount of each bond is $5 million. The issue price of each bond is 99.5 percent of par ($4.975 million). The bonds are subject to mandatory sinking fund redemption on July 1 of each year beginning July 1, 1994. On each sinking fund redemption date, one of the bonds is chosen by lottery and is required to be redeemed at par plus accrued interest ($5.35 million). The issuer elected under paragraph (c)(5) of this section not to apply the transition rule for fixed yield issues.

(ii) All the bonds are outstanding on the first installment computation date (7/01/93). The bonds are assumed to be retired on each scheduled mandatory early redemption date for purposes of determining the issue payments to be paid after the first installment computation date. See paragraph (c)(3)(i)(A) of this section. The issue payment taken into account on each mandatory early redemption date is the early retirement value of a bond on such date. See paragraph (c)(2)(iii) of this section. The early retirement value of a bond assumed to be retired on each mandatory early redemption date is the present value of the bond on such date. See paragraph (b)(7)(i) of this section. This present value is computed by treating the scheduled early retirement date (in satisfaction of which the bond is to be retired) and the stated retirement price on such date as the final maturity date and stated retirement price of the bond on the final maturity date. See paragraph (b)(8)(ii)(B)(3) of this section. The present value of each bond on the assumed retirement date (determined in this manner) is equal to the stated retirement price of the bond on the assumed retirement date ($5.35 million). Accordingly, the yield on the issue as of the first installment computation date (7/01/93) is 7.085 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (7.0845525262 percent)
7/01/89	$1,750,000.00	$1,634,222.64
7/01/90	1,750,000.00	1,526,104.93
7/01/91	1,750,000.00	1,425,140.13
7/01/92	1,750,000.00	1,330,855.01
7/01/93	1,750,000.00	1,242,897.65
7/01/94	6,750,000.00	4,476,543.57
7/01/95	6,400,000.00	3,963,621.64
7/01/96	6,050,000.00	3,498,974.40
7/01/97	5,700,000.00	3,078,459.32
7/01/98	5,350,000.00	2,698,270.71
PV issue prices (7/01/88)		24,875,000.00

See paragraph (c)(2)(i), (c)(2)(iii), (c)(2)(iv), (c)(3)(i)(A), and (c)(3)(ii) of this section. The special rule in paragraph (b)(7)(iii)(A) of this section for determining the early retirement value of certain discount bonds does not apply, because the yield-to-maturity is not more than one fourth of one percent lower than the composite yield-to-maturity. See subdivision (v) below.

(iii) All the bonds are redeemed on July 1, 1994 pursuant to an optional redemption provision for par plus accrued interest ($5.35 million). Since all the bonds are retired before the final maturity date (7/01/98), the issue payment taken into account on the retirement date (7/01/94) is the early retirement value of the bonds. See paragraph (c)(2)(iii) of this section. The early retirement value of each bond on July 1, 1994 is the present value of the bond on that date. See paragraph (b)(7)(i) of this section. The discount rate used in computing this present value is the composite yield-to-maturity on all 5 bonds, determined by assuming the bonds are retired on the scheduled early retirement dates and by treating those dates as the final maturity dates of the bonds. See paragraph (b)(8)(ii)(B) of this section. The composite yield-to-maturity on the bonds (determined in this manner) is 7.085 percent per annum compounded annually (the same as the yield as of the first installment computation date computed in subdivision (ii) above). Four of the five bonds are retired in satisfaction of the mandatory early redemption requirements. The present value of each of these bonds on July 1, 1994 is determined by treating the mandatory early redemption date (in satisfaction of which the bond is retired) and the stated retirement price on such date ($5.35 million) as the final maturity date and stated retirement price on the final maturity date. See paragraph (b)(8)(ii)(B)(3) ot this section. The present value of the bond retired in satisfaction of the July 1, 1994 mandatory early date is $5.35 million. The present value of each of the other four bonds is computed as follows:

Date	Payments	PV (7.085 percent)
7/01/94	$350,000.00	$350,000.00
7/01/95	5,350,000.00	4,996,031.19
PV (7/01/94)		5,346,031.19

Date	Payments	PV (7.085 percent)
7/01/94	$350,000.00	$350,000.00
7/01/95	350,000.00	326,843.16
7/01/96	5,350,000.00	4,665,481.80
PV (7/01/94)		5,342,324.97

Date	Payments	PV (7.085 percent)
7/01/94	$350,000.00	$350,000.00
7/01/95	350,000.00	326,843.16
7/01/96	350,000.00	305,218.44
7/01/97	5,350,000.00	4,356,802.36
PV (7/01/94)		5,338,863.96

Date	Payments	PV (7.085 percent)
7/01/94	$350,000.00	$350,000.00
7/01/95	350,000.00	326,843.16
7/01/96	350,000.00	305,218.44
7/01/97	350,000.00	285,024.45
7/01/98	5,350,000.00	4,068,545.88
PV (7/01/94)		5,335,631.93

(iv) The yield on the issue as of the final computation date (9/01/94) is 7.084 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (7.0844431623 percent)
7/01/89	$1,750,000.00	$1,634,224.31
7/01/90	1,750,000.00	1,526,108.05
7/01/91	1,750,000.00	1,425,144.50
7/01/92	1,750,000.00	1,330,860.45
7/01/93	1,750,000.00	1,242,814.00
7/01/94	5,350,000.00	3,548,097.01
7/01/94	5,346,031.19	3,545,464.91
7/01/94	5,342,324.97	3,543,006.97
7/01/94	5,338,863.96	3,540,711.64
7/01/94	5,335,631.93	3,538,568.17
PV issue prices (7/01/88)		24,875,000.00

See paragraph (c)(2)(i) and (c)(2)(iii) of this section. The discrepancy between this yield (7.084%) and the yield computed as of the first installment computation date (7.085%) is due solely to rounding of the discount rate used in computing the present values of the bonds.

(v) The special rule in paragraph (b)(7)(iii)(A) of this section for determining the early retirement value of certain discount bonds did not apply to the bonds, because the yield-to-maturity on the bonds is not more than one fourth of one percent lower than the composite yield-to-maturity determined as provided in paragraph (b)(8)(ii)(B) of this section (7.085%). The yield-to-maturity on the bonds is 7.071 percent per annum compounded annually, computed as follows:

Dates	Payments	PV (7.0714239676 percent)
7/01/89	$350,000.00	$326,884.60
7/01/90	350,000.00	305,295.84
7/01/91	350,000.00	285,132.89
7/01/92	350,000.00	266,301.57
7/01/93	350,000.00	248,713.95
7/01/94	350,000.00	232,287.89
7/01/95	350,000.00	216,946.67
7/01/96	350,000.00	202,618.65
7/01/97	350,000.00	189,236.91
7/01/98	5,350,000.00	2,701,581.02
Issue price		$4,975,000.00

See paragraph (b)(5)(ii) of this section.

Example (8). The facts are the same as in Example (7), except that the transition rule for fixed yield issues applies. The yield on the issue for purposes of computing the rebatable arbitrage as of each computation date is the yield on the issue determined by treating the date of issue as the only computation date. See paragraph (c)(5) of this section. This yield (7.085%) is the same as the yield computed as of the first installment computation date in Example (7)(ii) when all the bonds were outstanding.

Example (9). (i) The facts are the same as in Example (7), except that the issue price of each bond is 80 percent of par ($4 million).

(ii) The special rule in paragraph (b)(7)(iii)(A) of this section for determining the early retirement value of the bonds applies to the bonds, because the yield-to-maturity on the bonds is more than one fourth of one percent lower than the composite yield-to-maturity determined as provided in paragraph (b)(8)(ii)(B) of this section. The yield-to-maturity and composite yield-to-maturity are 10.296 percent and 10.906 percent per annum compounded annually, computed as follows:

Date	Payments	PV (10.2964780071 percent)
7/01/89	$350,000.00	$317,326.54
7/01/90	350,000.00	287,703.24
7/01/91	350,000.00	260,845.36
7/01/92	350,000.00	236,494.73
7/01/93	350,000.00	214,417.30
7/01/94	350,000.00	194,400.86
7/01/95	350,000.00	176,253.01
7/01/96	350,000.00	159,799.31
7/01/97	350,000.00	144,881.60
7/01/98	5,350,000.00	2,007,878.06
Issue price		$4,000,000.00

See paragraph (b)(5)(ii) of this section.

Date	Payments	PV (10.9059654240 percent)
7/01/89	$1,750,000.00	$1,577,913.32
7/01/90	1,750,000.00	1,422,748.82
7/01/91	1,750,000.00	1,282,842.47
7/01/92	1,750,000.00	1,156,693.84
7/01/93	1,750,000.00	1,042,950.06
7/01/94	6,750,000.00	3,627,223.64
7/01/95	6,400,000.00	3,100,956.17
7/01/96	6,050,000.00	2,643,115.38
7/01/97	5,700,000.00	2,245,332.67
7/01/98	5,350,000.00	1,900,223.63
Issue prices (7/01/88)		$20,000,000.00

See paragraph (b)(8)(ii)(B) of this section.

(iii) The yield on the issue as of the first installment computation date is determined by assuming the bonds are retired on the scheduled early retirement dates for the early retirement value of the bonds on such dates. See paragraphs (c)(2)(iii) and (c)(3)(i)(A) of this section. The early retirement value is equal to the present value of the bonds, determined by using a discount rate equal to the yield-to-maturity on the bonds (10.296%). See paragraphs (b)(7)(i) and (b)(8)(ii)(A) of this section. The present value of a bond on each mandatory early redemption date is computed as follows:

Date	Payments	PV (10.296 percent)
7/01/94	$350,000.00	$350,000.00
7/01/95	350,000.00	317,327.92
7/01/96	350,000.00	287,705.74
7/01/97	350,000.00	260,848.75
7/01/98	5,350,000.00	3,615,053.52
PV (7/01/94)		$4,830,935.92

Date	Payments	PV (10.296 percent)
7/01/95	$350,000.00	$350,000.00
7/01/96	350,000.00	317,327.92
7/01/97	350,000.00	287,705.74
7/01/98	5,350,000.00	3,987,259.43
PV (7/01/95)		$4,942,293.09

Date	Payments	PV (10.296 percent)
7/01/96	$350,000.00	$350,000.00
7/01/97	350,000.00	317,327.92
7/01/98	5,350,000.00	4,397,787.67
PV (7/01/96)		$5,065,115.58

Date	Payments	PV (10.296 percent)
7/01/97	$350,000.00	$350,000.00
7/01/98	5,350,000.00	4,850,583.88
PV (7/01/97)		$5,200,583.88

The yield on the issue as of the first installment computation date (7/01/93) is 10.297 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (10.2965625327 percent)
7/01/89	$1,750,000.00	$1,586,631.50
7/01/90	1,750,000.00	1,436,514.00
7/01/91	1,750,000.00	1,304,223.78
7/01/92	1,750,000.00	1,182,470.02
7/01/93	1,750,000.00	1,072,082.39
7/01/94	6,230,935.92	3,460,839.19
7/01/95	5,992,293.09	3,017,582.86
7/01/96	5,765,115.58	2,632,159.47
7/01/97	5,550,583.88	2,297,634.12
7/01/98	5,350,000.00	2,007,862.67
Issue prices (7/01/88)		$20,000,000.00

See paragraphs (c)(2)(i), (c)(2)(iii), (c)(2)(iv), (c)(3)(i)(A), and (c)(3)(ii) of this section. The issue payment taken into account on each mandatory early redemption date includes the early retirement value of the bond assumed to be retired on that date and interest on any other bond still outstanding on that date. The discrepancy between this yield (10.297%) and the yield-to-maturity on the bonds (10.296%) is due solely to rounding of the discount rate used in computing the present values of the bonds.

Example (10). The facts are the same as in Examples (7), (8), and (9), except that the bonds are subject to mandatory early redemption at par plus accrued interest ($5.35 million) on July 1 of each year beginning July 1, 1994 only to the extent there are excess revenues available for such purpose in a special redemption fund established under the indenture securing the bonds. On the date of issue and the first installment computation date, the issuer is reasonably certain that the excess revenues will be sufficient to redeem one bond on each July 1 beginning July 1, 1994. The results are the same as in Examples (7), (8), and (9). See paragraph (b)(8)(ii)(B) of this section (last sentence) and § 1.148-8T(b)(4).

Example (11). (i) The facts are the same as in Example (4) in paragraph (d)(4) of this section, except that the issuer of the tender bonds elected to treat the variable yield issue as a fixed yield issue. See paragraph (b)(1)(ii) of this section.

(ii) The yield on the issue as of the first installment computation date (9/01/93) is 6.518 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.5181030537 percent)
9/01/88		$175,000.00	$175,000.00
9/01/89	$1,393,750.00	140,000.00	1,438,461.73
9/01/90	1,393,750.00	140,000.00	1,349,093.50
9/01/91	1,393,750.00	140,000.00	1,265,277.50
9/01/92	1,651,250.00	140,000.00	1,385,897.63
9/01/93	1,651,250.00	140,000.00	1,299,795.08
9/01/94	1,522,500.00	140,000.00	1,131,420.58
9/01/95	1,522,500.00	140,000.00	1,061,128.09
9/01/96	1,522,500.00	140,000.00	995,202.71
9/01/97	1,522,500.00	140,000.00	933,373.11
9/01/98	26,522,500.00		13,965,350.07
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (c)(3)(ii), (c)(6), (d)(2)(i)(A), (d)(2)(i)(B), and (d)(2)(i)(E) of this section. The interest rate on the tender bonds after the first installment computation date (9/01/93) is assumed to be 6 percent per annum (the same as the interest rate on the bonds for the period beginning on that date). See paragraph (c)(6)(ii) of this section. All payments for the qualified guarantee are treated as paid when paid (but not earlier than when actually due). See paragraph (b)(13)(ii)(A) of this section.

(iii) All the bonds are redeemed on September 1, 1995 at par ($25 million) plus accrued interest ($1,651,250). The yield on the issue as of the final computation date is 6.614 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.6135975396 percent)
9/01/88		$144,579.16	$144,579.16
9/01/89	$1,393,750.00	144,579.16	1,441,423.06
9/01/90	1,393,750.00	144,579.16	1,350,621.49
9/01/91	1,393,750.00	144,579.16	1,265,539.92
9/01/92	1,651,250.00	144,579.16	1,384,311.37
9/01/93	1,651,250.00	144,579.16	1,297,107.53
9/01/94	1,651,250.00	144,579.16	1,215,397.03
9/01/95	26,651,250.00		16,901,020.44
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (c)(6), (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(D), and (b)(7)(ii) of this section. The initial fee for the guarantee is a nonlevel payment and is treated as paid on the first day of each bond year in amounts equal to the constant payment amount ($4,579.16). See paragraph (b)(13)(ii)(B) of this section and paragraph (d)(4) of this section (Example (4)).

(d) *Computation of yield on variable yield issue*—(1) *General rule.* The yield on a variable yield issue during any yield period is the discount rate that produces the same present value when used in computing—

(i) *Issue payments.* The present value of all the issue payments in connection with the bonds that are part of the variable yield issue that are attributable to the yield period; and

(ii) *Issue prices.* The present value of all the issue prices of the bonds issued as part of the variable yield issue during the yield period.

Present value is computed as of the first day of the yield period. See § 1.148–8T(b)(5) for formula for determining present value. See paragraph (d)(2) of this section for rules for variable yield bonds. See paragraph (d)(3) of this section for rules for fixed yield bonds. See paragraph (b) of this section for definitions and special rules.

(2) *Variable yield bonds*—(i) *Issue payments.* For purposes of paragraph (d)(1)(i) of this section, the issue payments in connection with a variable yield bond that are attributable to a yield period are—

(A) *Interest.* Any amounts paid during the yield period to discharge interest that accrued on the bond during the yield period;

(B) *Qualified guarantee.* Any amounts paid during the yield period for a qualified guarantee with respect to the bond;

(C) *Tender price.* If the bond is a tender bond and is purchased pursuant to the tender right during the yield period, the amount paid pursuant to the tender right to purchase the bond;

(D) *Early retirement.* If the bond is retired before the final maturity date and during the yield period, an amount equal to the early retirement value of the bond on the retirement date;

(E) *Retirement price.* If the bond is retired on the final maturity date and during the yield period, an amount equal to the retirement price of the bond (not including any payment of interest taken into account under paragraph (d)(2)(i)(A) or (d)(2)(i)(C) of this section); and

(F) *End-of-period (and conversion) value.* If the bond is outstanding at the close of business on the last day of the yield period or is treated under paragraph (b)(3)(i) of this section as a fixed yield bond immediately after the close of business on a day (and is not a tender bond that is purchased pursuant to the tender right on such day)—

(*1*) An amount equal to the early retirement value of the bond at such time; and

(*2*) An amount equal to any unpaid interest at such time that accrued on the bond during the yield period (taken into account as of the next regular interest payment date when such amount is scheduled to be paid).

(ii) *Issue prices.* For purposes of paragraph (d)(1)(ii) of this section—

(A) *Tender bond remarketing.* A tender bond to which paragraph (d)(2)(i)(C) of this section applied on a day shall be treated as if issued immediately after the close of business on the day the bond is remarketed for an issue price equal to the issue price of the bond (determined under § 1.148–8T(c)); and

(B) *Start-of-period (and conversion) value.* A bond to which paragraph (d)(2)(i)(F) of this section applied on a day shall be treated as if issued immediately after the close of business on such day for an issue price equal to the early retirement value of the bond taken into account on such day under paragraph (d)(2)(i)(F)(*1*) of this section.

(3) *Fixed yield bonds*—(i) *Issue payments.* For purposes of paragraph (d)(1)(i) of this section, the issue payments in connection with a fixed yield bond that are attributable to a yield period are—

(A) *Principal and interest.* Any amounts paid during the yield period to discharge principal or interest on the bond;

(B) *Qualified guarantee.* Any amounts paid during the yield period for a qualified guarantee with respect to the bond;

(C) *Early retirement value.* If the bond is retired before the final maturity date and during the yield period, an amount equal to the early retirement value of the bond on the retirement date;

(D) *Retirement price.* If the bond is retired on the final maturity date and during the yield period, an amount equal to the retirement price of the bond; and

(E) *End-of-period value.* If the bond is outstanding at the close of business on the last day of the yield period, the early retirement value of the bond on such day.

The amount taken into account under paragraphs (d)(3)(i)(C), (d)(3)(i)(D), and (d)(3)(i)(E) on a date shall not include any amount taken into account under paragraph (d)(3)(i)(A) or (d)(3)(i)(B) on such date.

(ii) *Issue prices.* For purposes of paragraph (d)(1)(ii) of this section, a bond to which paragraph (d)(3)(i)(E) of this section applied on the last day of a yield period shall be treated as if issued on the first day of the next succeeding yield period for an issue price equal to the amount taken into account with respect to the bond on such last day under paragraph (d)(3)(i)(E) of this section.

(4) *Examples.* The following examples illustrate the application of this paragraph (d):

Example (1). (i) On December 1, 1988, County C issues an issue consisting of identical current index bonds. The aggregate principal amount and issue price of the bonds (determined under § 1.148–8T(c)) is $10 million. The final maturity date of each bond is December 1, 1995. The bonds are not subject to redemption or purchase before maturity. Interest on the bonds is payable on December 1 of each year. The interest rate on the bonds for each 1-year period beginning December 1 is 85 percent of the prime rate of Bank B as of such December 1. The prime rate of Bank B as of the date of issue is 7 percent per annum. Therefore, the assumed interest rate for purposes of computing the yield on and present value of the bonds is 5.95 percent (85% of 7%). See paragraph (b)(9)(ii) of this section. The prime rate of Bank B as of each December 1 beginning December 1, 1989 is 6 percent per annum. Therefore, the actual rate of interest on the bonds after the first 1-year period is 5.1 percent for each year. All the bonds are outstanding at the end of the first yield period (12/01/93).

(ii) The yield-to maturity on the bonds is 5.950 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (5.9500000000 percent)
12/01/89	$595,000.00	$561,585.65
12/01/90	595,000.00	530,047.81
12/01/91	595,000.00	500,281.08

Date	Issue payments	PV (5.9500000000 percent)
12/01/92	595,000.00	472,186.02
12/01/93	595,000.00	445,668.73
12/01/94	595,000.00	420,640.61
12/01/95	10,595,000.00	7,069,590.10
PV issue prices (12/01/88)		10,000,000.00

See paragraphs (b)(5)(ii), (b)(9)(i), and (b)(9)(i) of this section. The aggregate present value of the bonds on the last day of the first yield period (12/01/93) determined by using the exact method is $10,000,000, computed as follows:

Date	Payments	PV (5.950 percent)
12/01/94	$595,000.00	$561,585.65
12/01/95	10,595,000.00	9,438,414.35
PV (12/01/93)		10,000,000.00

See paragraphs (b)(8)(i) and (b)(9) of this section. The present value on December 1, 1993 is determined without regard to interest at the assumed rate that accrued on or before that date and is payable on or after that date (*i.e.*, without regard to the $595,000 payable on 12/01/93). See paragraph (b)(9)(iv) of this section. The present value would be the same if the issuer used the approximate method to determine the present value. See paragraph (b)(8)(iii) of this section. The aggregate early retirement value of the bonds on the last day of the first yield period is the aggregate present value of the bonds. See paragraph (b)(7)(i) of this section.

(iii) The aggregate early retirement value of the bonds on the last day of the first yield period ($10 million) and the actual interest paid on that date ($510,000) are taken into account as issue payments on that date for purposes of computing the yield on the issue during the first yield period (the period ending 12/01/93). See paragraph (d)(2)(i)(A) and (d)(2)(i)(F)(*1*) of this section. The yield on the issue during the first yield period is 5.288 percent per annum compounded annually, computed as follows:

Date	Payments	PV (5.2879549712 percent)
12/01/89	$595,000.00	$565,116.87
12/01/90	510,000.00	460,058.22
12/01/91	510,000.00	436,952.38
12/01/92	510,000.00	415,006.99
12/01/93	10,510,000.00	8,122,865.54
PV issue prices (12/01/88)		10,000,000.00

(iv) Assume all the bonds are retired on December 1, 1994 for 99.9 percent of par ($9.99 million) plus accrued interest ($510,000). For purposes of computing the yield on the issue during the second yield period (the period ending 12/01/94), the aggregate issue price of the bonds taken into account on the first day of the second yield period is the same as the early retirement value of the bonds taken into account on the last day of the first yield period ($10 million). See paragraph (d)(2)(ii)(B) of this section. The issue payments taken into account on the early retirement date (12/01/94) are the accrued interest paid on that date ($510,000) and the aggregate early retirement value of the bonds on that date. See paragraph (d)(2)(i)(A) and (d)(2)(i)(D) of this section. The aggregate early retirement value of the bonds on the early retirement date is the present value of the bonds on that date, which is $10 million (determined by using the exact or the approximate method). See paragraph (b)(7)(i), (b)(8)(i), (b)(8)(iii), and (b)(9) of this section. The yield on the issue during the second yield period is 5.100 percent per annum compounded annually, computed as follows:

Date	Issue payment	PV (5.1000000000 percent)
12/01/94	$10,510,000.00	$10,000,000.00
PV issue prices (12/01/93)		10,000,000.00

Example (2). (i) The facts are the same as in Example (1), except that the aggregate issue price of the bonds is $10,025,000, and the bonds are subject to optional redemption at par plus accrued interest on or after December 1, 1993.

(ii) The bonds are not yield-to-call bonds, because the yield-to-maturity on the bonds is not more than one sixteenth of one percent higher than the lowest yield. See paragraph (b)(4)(ii)(B) of this section. The yield-to-maturity on the bonds is 5.905 percent per annum compounded annually, computed as follows:

Date	Payments	PV (5.9053667634 percent)
12/01/89	$595,000.00	$561,822.33
12/01/90	595,000.00	530,494.67
12/01/91	595,000.00	500,913.87
12/01/92	595,000.00	472,982.52
12/01/93	595,000.00	446,608.64
12/01/94	595,000.00	421,705.39
12/01/95	10,595,000.00	7,090,472.57
PV issue prices (12/01/88)		10,025,000.00

See paragraph (b)(5)(ii) and (b)(9) of this section. The lowest yield on the bonds is 5.891 percent per annum compounded annually, computed as follows:

Date	Payments	PV (5.8908270554 percent)
12/01/89	$595,000.00	$561,899.47
12/01/90	595,000.00	530,640.37
12/01/91	595,000.00	501,120.24
12/01/92	595,000.00	473,242.35
12/01/93	10,595,000.00	7,958,097.57
PV issue prices (12/01/88)		10,025,000.00

See paragraph (b)(5)(iii) and (b)(9) of this section.

(iii) The aggregate present value and early retirement value of the bonds on the last day of the first yield period (12/01/93) is $10,008,261.26, computed as follows:

Date	Payments	PV (5.905 percent)
12/01/94	$595,000.00	$561,824.28
12/01/95	10,595,000.00	9,446,436.99
PV (12/01/93)		10,008,261.26

See paragraph (b)(7)(i), (b)(8)(i) and (b)(9) of this section.

The yield on the issue during the first yield period (the period ending 12/01/93) is 5.245 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (5.2445513152 percent)
12/01/89	$595,000.00	$565,349.93
12/01/90	510,000.00	460,437.76
12/01/91	510,000.00	437,493.21
12/01/92	510,000.00	415,692.02
12/01/93	10,518,261.26	8,146,027.07
PV issue prices (12/01/88)		10,025,000.00

See paragraph (d)(2)(i)(A) and (d)(2)(i)(F)(*1*) of this section.

(iv) Assume that all the bonds remain outstanding to maturity (12/01/95). The aggregate issue price taken into account on the first day of the second yield period is the aggregate early retirement value of the bonds on such date ($10,008,261.26, computed in subdivision (iii) above). See paragraph (d)(2)(ii)(B) of this section. The aggregate issue payments taken into account on the final maturity date are the accrued interest paid on the retirement date ($510,000) and the aggregate retirement price of the bonds less such accrued interest ($10 million). See paragraph (d)(2)(i)(A) and (d)(2)(i)(E) of this section. The yield on the issue during the second yield period is 5.056 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (5.0555355756 percent)
12/01/94	$510,000.00	$485,457.52
12/01/95	10,510,000.00	9,522,803.74
PV issue prices (12/01/93)		10,008,261.26

Example (3). (i) The facts are the same as in Example (2), except that the bonds are subject to extraordinary optional or mandatory redemption at par plus accrued interest on December 1, 1990 with proceeds of the issue that have not been spent before that date. County C spent all the proceeds of the issue before such date.

(ii) The bonds are yield-to-call bonds, because the yield-to-maturity on the bonds is more than one sixteenth of one percent higher than the lowest yield. See paragraph (b)(4)(ii)(B) of this section. The yield-to-maturity on the bonds is the same as the yield-to-maturity computed in Example (2) [5.905%]. The lowest yield on the bonds is 5.814 percent per annum compounded annually, computed as follows:

Date	Payments	PV (5.8139961083 percent)
12/01/89	$595,000.00	$562,307.47
12/01/90	10,595,000.00	9,462,692.53
PV issue prices (12/01/88)		10,025,000.00

See paragraph (b)(5)(iii) and (b)(9) of this section. The bonds are treated as if the final maturity date of the bonds were December 1, 1990, and as if the stated retirement price on the final maturity date were $10.595 million. See paragraph (b)(4)(i) of this section. Since the bonds are not actually retired on or before December 1, 1990, the bonds are treated as if issued on that date for $10 million. See paragraph (b)(4)(i) of this section. The yield-to-maturity on the reissued bond is 5.950 percent per annum compounded annually, computed as follows:

Date	Payments	PV (5.9500000000 percent)
12/01/91	$595,000.00	$561,585.65
12/01/92	595,000.00	530,047.81
12/01/93	595,000.00	500,281.08
12/01/94	595,000.00	472,186.02
12/01/95	10,595,000.00	7,935,899.44
PV issue prices (12/01/90)		10,000,000.00

See paragraph (b)(4)(i), (b)(5)(ii), and (b)(9) of this section. The early retirement value of the reissued bond on the last day of the first yield period (12/01/93) is $10 million, computed as follows:

Date	Payments	PV (5.950 percent)
12/01/94	$595,000.00	$561,585.65
12/01/95	10,595,000.00	9,438,414.35
PV (12/01/93)		10,000,000.00

See paragraph (b)(7)(i) and (b)(9) of this section.

(iii) The yield on the issue during the first yield period is 5.230 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (5.2296467486 percent)
12/01/89	$595,000.00	$565,430.01
12/01/90	10,510,000.00	9,491,317.27
12/01/90	(10,000,000.00)	(9,030,749.07)
12/01/91	510,000.00	437,679.13
12/01/92	510,000.00	415,927.59
12/01/93	10,510,000.00	8,145,395.07
PV issue prices (12/01/88)		10,025,000.00

See paragraph (d)(2)(i)(A), (d)(2)(i)(E), and (d)(2)(i)(F)(*1*) of this section. The yield on the issue during the second yield period is 5.100 percent per annum compounded annually, computed as follows:

Date	Issue payments	PV (5.1000000000 percent)
12/01/94	$510,000.00	$485,252.14
12/01/95	10,510,000.00	9,514,747.86
PV issue prices (12/01/93)		10,000,000.00

See paragraph (d)(2)(i)(A), (d)(2)(i)(E), and (d)(2)(ii)(B) of of this section.

Example (4). (i) On September 1, 1988, City A issues an issue consisting of identical tender bonds. The aggregate principal amount and issue price of the bonds (determined under § 1.148–8T(c)] is $25 million, and the final maturity date of the bonds is September 1, 1998. Interest on the bonds is payable on September 1 of each year. The bondholders are entitled to tender the bonds at par (plus accrued interest if the tender date is not an interest payment date) to an independent remarketing agent on March 1 and September 1 of each year. On February 20 and August 20 of each year, the remarketing agent determines the lowest interest rate on the bonds that would enable the bonds that will be tendered on the next tender date to be remarketed on such date at par (plus any accrued interest). Under the terms of the bonds, this interest rate will be the interest rate for the next 6-month period beginning on the tender date (unless such rate exceeds 12 percent, which is the maximum interest rate payable on the bonds). Interest is compounded on each tender date. The remarketing agent is required to use best efforts to remarket tendered bonds at par (plus any accrued interest) on each tender date and, if any tendered bonds cannot be remarketed on such date, to continue to use best efforts to remarket the bonds. The tender price of tendered bonds is to be paid with proceeds received from remarketing the bonds. If the remarketing proceeds (and other available funds) are insufficient to make full payment, the remarketing agent is required to draw on an irrevocable letter of credit issued by Bank A to the extent necessary to make full payment. The letter of credit also guarantees regular payments of principal and interest on the bonds. Any bond that cannot be remarketed on a tender date is delivered to Bank A as security for repayment of the letter of credit advance. Advances under the letter of credit bear interest at the maximum interest rate payable on the bonds (compounded semiannually and payable each September 1). Any interest due on the bonds held by Bank A is paid to Bank A and credited against the interest accruing on the letter of credit advance. Bank A is entitled to reimbursement for any advances under the letter of credit and interest thereon from proceeds of any subsequent remarketing of the bonds delivered to Bank A (and from other available funds). The term of the letter of credit ends on the final maturity date of the bonds. The initial fee for providing the letter of credit is $35,000 payable on the date of issue. Annual fees for providing the letter of credit are payable in advance on the date of issue and on each September 1 thereafter in an amount equal to one-half of one percent of the sum of the outstanding par amount of the bonds on such date and simple interest for one year at the maximum interest rate.

(ii) Assume that the letter of credit is a qualified guarantee, that all bonds tendered on each tender date are remarketed at par (plus any accrued interest) on the same date, and that no draws are made under the letter of credit. Assume further that if all the bonds remain outstanding until maturity, the interest rates and payments for debt service and for the qualified guarantee are as follows:

Date	Interest rate (percent)	Debt service	Guarantee
9/01/88	5		$175,000.00
3/01/89	6		
9/01/89	5	$1,393,750.00	140,000.00
3/01/90	6		
9/01/90	5	1,393,750.00	140,000.00
3/01/91	6		
9/01/91	6	1,393,750.00	140,000.00
3/01/92	7		
9/01/92	6	1,651,250.00	140,000.00
3/01/93	7		
9/01/93	6	1,651,250.00	140,000.00
3/01/94	7		
9/01/94	6	1,651,250.00	140,000.00
3/01/95	7		
9/01/95	5	1,651,250.00	140,000.00
3/01/96	6		
9/01/96	6	1,393,750.00	140,000.00
3/01/97	5		
9/01/97	7	1,393,750.00	140,000.00
3/01/98	6		
9/01/98		26,651,250.00	

(iii) The annual letter of credit fees are level payments and are treated as paid when actually paid (but not earlier than when actually due). See paragraphs (b)(13)(ii)(A) and (b)(13)(iii)(A) of this section. The initial fee for the letter of credit ($35,000) is a nonlevel payment and is treated as paid on the first day of each bond year during the term of the letter of credit. See paragraphs (b)(13)(ii)(B) and (b)(13)(iii)(B) of this section. The amount of the initial letter of credit fee treated as paid on each September 1 is the constant payment amount. The aggregate constant payment amount is the present value of the initial fee on September 1, 1988 ($35,000), divided by the sum of the present values on September 1, 1988 of $1 paid on

each September 1. For this purpose, the yield on the tender bonds during the first yield period (without regard to the initial fee) is used as the discount rate. See paragraph (b)(13)(iii)(C) of this section.

(iv) Assume all the bonds are outstanding on the last day of the first yield period (9/01/93). For purposes of computing the yield on the issue during the first yield period, the aggregate issue payments taken into account as of the last day of the first yield period are the early retirement value of the bonds ($25 million) and the accrued interest paid on such day ($1,651,250). See paragraphs (d)(2)(i)(A) and (d)(2)(i)(F)(*1*) of this section. The aggregate early retirement value of the bonds is the outstanding par amount of the bonds. See paragraph (b)(7)(ii) of this section. The yield on the tender bonds during the first yield period (determined without regard to the initial letter of credit fee) is 6.441 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.4412399054 percent)
9/01/88		$140,000.00	$140,000.00
9/01/89	$1,393,750.00	140,000.00	1,439,533.08
9/01/90	1,393,750.00	140,000.00	1,351,103.82
9/01/91	1,393,750.00	140,000.00	1,268,106.70
9/01/92	1,651,250.00	140,000.00	1,390,031.04
9/01/93	26,651,250.00		19,411,225.36
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(F)(*1*), and (b)(13)(ii)(A) of this section. Since the amounts paid to purchase tendered bonds were exactly offset on the same date by amounts received from remarketing the tendered bonds, both amounts may be disregarded in computing the yield. See paragraphs (d)(2)(i)(C) and (d)(2)(ii)(A) of this section. The present value of $1 paid on each September 1 is $7.64332, computed as follows:

Date	Payment	PV (6.441 percent)
9/01/88	$1	$1.00000
9/01/89	1	.93857
9/01/90	1	.88092
9/01/91	1	.82681
9/01/92	1	.77602
9/01/93	1	.72835
9/01/94	1	.68361
9/01/95	1	.64162
9/01/96	1	.60221
9/01/97	1	.56521

Date	Payment	PV (6.441 percent)
PV (9/01/88)		7.64332

The aggregate constant payment amount is $4,579.16 ($35,000 divided by $7.64332). See paragraph (b)(13)(iii)(C) of this section. The yield on the issue during the first yield period is 6.460 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.4601482415 percent)
9/01/88		$144,579.16	$144,579.16
9/01/89	$1,393,750.00	144,579.16	1,443,566.50
9/01/90	1,393,750.00	144,579.16	1,354,641.31
9/01/91	1,393,750.00	144,579.16	1,271,194.01
9/01/92	1,651,250.00	144,579.16	1,392,563.81
9/01/93	26,651,250.00		19,393,455.21
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(F)(*1*), (b)(13)(ii)(A), and (b)(13)(ii)(B) of this section.

(v) Assume all the bonds are outstanding until maturity (9/01/98). For purposes of computing the yield on the issue during the second yield period (the period ending 9/01/98), the bonds are treated as if issued for an aggregate issue price equal to the early retirement value of the bonds that was taken into account on the last day of the first yield period ($25 million). See paragraph (d)(2)(ii)(B) of this section. The aggregate issue payment taken into account on the final maturity date is the retirement price of the bonds ($26,651,250). See paragraphs (d)(2)(i)(A) and (d)(2)(i)(E) of this section. The yield on the issue during the second yield period is 6.713 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.7130248542 percent)
9/01/93		$144,579.16	$144,579.16
9/01/94	$1,651,250.00	144,579.16	1,681,083.66
9/01/95	1,651,250.00	144,579.16	1,573,669.88
9/01/96	1,393,750.00	144,579.16	1,261,892.02
9/01/97	1,393,750.00	144,579.16	1,181,262.73
9/01/98	26,651,250.00		19,157,512.55
PV issue prices (9/01/93)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(F)(*1*), (b)(13)(ii)(A), and (b)(13)(ii)(B) of this section.

Example (5). The facts are the same as in Example (4), except that all the bonds are redeemed on the first installment computation date (9/01/93) at par ($25 million) plus accrued interest ($1,651,250). The aggregate issue payments taken into account on September 1, 1993 total $26,651,250. See paragraphs (d)(2)(i)(A), (d)(2)(i)(D), and (b)(7)(ii) of this section. The yield on the issue during the first yield period is 6.460 percent per annum compounded semiannually (the same as the yield on the issue during the first yield period computed in Example (4)(iv)).

Example (6). (i) The facts are the same as in Example (4), except that $10 million of the bonds are redeemed on September 1, 1992 at par ($10 million) plus accrued interest ($660,500), and all the remaining bonds are redeemed on June 1, 1996 at par ($15 million) plus accrued interest ($605,625). The annual letter of credit fee paid on each September 1 on and after September 1, 1992 (when $10 million of the bonds are retired) is $84,000 (the product of $140,000 and 15 divided by 25). The last annual letter of credit fee is paid on September 1, 1995 (the last September 1 before the remaining $15 million of bonds are retired).

(ii) The yield on the tender bonds during the first yield period (without regard to the initial letter of credit fee) is 6.393 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.3931795670 percent)
9/01/88		$140,000.00	$140,000.00
9/01/89	$1,393,750.00	140,000.00	1,440,203.57
9/01/90	1,393,750.00	140,000.00	1,352,362.73
9/01/91	1,393,750.00	140,000.00	1,269,879.46
9/01/92	11,651,250.00	84,000.00	9,123,670.21
9/01/93	15,990,750.00		11,673,884.03
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(D), (d)(2)(i)(F)(*1*), and (b)(13)(ii)(A) of this section. The present value as of September 1, 1988 (using a discount rate equal to 6.393%) of $1 paid on each September 1 on which an annual letter of credit fee is payable (*i.e.*, each September 1 beginning 9/01/88 and ending 9/01/97) is $7.65749. The aggregate constant payment amount is $4,570.69 ($35,000 divided by $7.65749). See paragraph (b)(13)(iii)(C) of this section. The aggregate constant payment amount taken into account on September 1, 1992 includes only the portion of such amount attributable to the $15 million of bonds remaining outstanding after September 1, 1992 ($2,742.41; the product of $4,570.69 and 15 divided by 25). See paragraph (b)(13)(ii)(C) of this section. The yield on the issue during the first yield period is 6.412 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.4120605006 percent)
9/01/88		$144,570.69	$144,570.69
9/01/89	$1,393,750.00	144,570.69	1,444,231.24
9/01/90	1,393,750.00	144,570.69	1,355,896.65
9/01/91	1,393,750.00	144,570.69	1,272,964.93
9/01/92	11,651,250.00	86,742.41	9,119,126.41
9/01/93	15,990,750.00		11,663,210.08
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(D), (d)(2)(i)(F)(*1*), (b)(13)(ii)(A), (b)(13)(ii)(B), and (b)(13)(ii)(C) of this section.

(iii) For purposes of computing the yield on the issue during the second yield period, both the annual letter of credit fee paid on September 1, 1995 and the aggregate constant payment amount normally treated as paid on September 1, 1995 are reduced to reflect the fact that the bonds were retired before the end of the bond year. The aggregate amount taken into account on September 1, 1995 is the product of $86,742.41 and 9 divided by 12 (the portion of the bond year during which the bonds were not retired). See paragraph (b)(13)(ii)(C) of this section. The yield on the issue during the second yield period is 6.807 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.8066199593 percent)
9/01/93		$86,742.41	$86,742.41
9/01/94	$990,750.00	86,742.41	1,007,732.67
9/01/95	990,750.00	65,056.81	923,520.83
6/01/96	15,605,625.00		12,982,004.09
PV issue prices (9/01/93)			15,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(D), (d)(2)(ii)(B), (b)(13)(ii)(A), (b)(13)(ii)(B), and (b)(13)(ii)(C) of this section.

Example (7). (i) The facts are the same as in Example (4), except that the annual letter of credit fee for each of the first five years is an amount equal to two-thirds of one percent of the sum of the outstanding par amount of the bonds and simple interest for one year at the maximum interest rate and thereafter is an amount equal to one third of one percent of such sum.

(ii) All the bonds are outstanding on the first installment computation date (9/01/93). Both the initial and the annual letter of credit

fees are nonlevel payments and must be reallocated. See paragraph (b)(13)(iii)(B) of this section. The aggregate constant payment amount is the present value of all the fees on September 1, 1988, divided by the sum of the present values as of September 1, 1988 of $1 paid on each September 1. See paragraph (b)(13)(iii)(C) of this section. The yield on the tender bonds during the first yield period (without regard to any of the fees) is used as the discount rate. The yield on the tender bonds during the first yield period (as so determined) is 5.866 percent per annum compounded semiannually, computed as follows:

Date	Debt service	PV (5.8656597372 percent)
9/01/89	$1,393,750.00	$1,315,458.21
9/01/90	1,393,750.00	1,241,564.34
9/01/91	1,393,750.00	1,171,821.34
9/01/92	1,651,250.00	1,310,332.55
9/01/93	26,651,250.00	19,960,823.56
PV issue prices (9/01/88)		25,000,000.00

See paragraph (d)(2)(i)(A) and (d)(2)(i)(F)(*1*) of this section. The present value of all the fees as of September 1, 1988 is $1,181,584.35, computed as follows:

Date	Guarantee	PV (5.866 percent)
9/01/88	$221,666.67	$221,666.67
9/01/89	186,666.67	176,180.37
9/01/90	186,666.67	166,283.16
9/01/91	186,666.67	156,941.90
9/01/92	186,666.67	148,125.47
9/01/93	93,333.33	69,902.14
9/01/94	93,333.33	65,975.27
9/01/95	93,333.33	62,269.01
9/01/96	93,333.33	58,770.94
9/01/97	93,333.33	55,469.39
PV (9/01/88)		1,181,584.35

The present value as of September 1, 1988 of $1 paid on each September 1 during the term of the guarantee is $7.81592. The aggregate constant payment amount is $151,176.62 ($1,181,584.35 divided by $7.81592). See paragraph (b)(13)(iii)(C) of this section. The yield on the issue during the first yield period is 6.487 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.4873997624 percent)
9/01/88		$151,176.62	$151,176.62
9/01/89	$1,393,750.00	151,176.62	1,449,374.90
9/01/90	1,393,750.00	151,176.62	1,359,732.94
9/01/91	1,393,750.00	151,176.62	1,275,635.21
9/01/92	1,651,250.00	151,176.62	1,396,204.76
9/01/93	26,651,250.00		19,367,875.57
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(F)(*1*), and (b)(13)(ii)(B) of this section.

Example (8). (i) The facts are the same as in Example (7), except that the bonds are issued on March 1, 1989, and the annual letter of credit fee payable on March 1, 1989 (for the first bond year) is one half of the regular annual fee ($93,333.34).

(ii) The yield on the tender bonds during the first yield period (without regard to any of the fees) is 5.974 percent per annum compounded semiannually, computed as follows:

Date	Debt service	PV (5.9742161006 percent)
9/01/89	$750,000.00	$728,246.49
9/01/90	1,393,750.00	1,275,957.74
9/01/91	1,393,750.00	1,203,013.68
9/01/92	1,651,250.00	1,343,794.29
9/01/93	26,651,250.00	20,448,987.81
PV issue prices (3/01/89)		25,000,000.00

See paragraphs (d)(2)(i)(A) and (d)(2)(i)(F)(*1*) of this section. The present value of all the fees as of March 1, 1989 (the first day of the first bond year) is $1,112,913.51, computed as follows:

Date	Guarantee	PV (5.974 percent)
3/01/89	$128,333.34	$128,333.34
9/01/89	186,666.67	181,252.65
9/01/90	186,666.67	170,891.14
9/01/91	186,666.67	161,121.96
9/01/92	186,666.67	151,911.25
9/01/93	93,333.33	71,613.53
9/01/94	93,333.33	67,519.67
9/01/95	93,333.33	63,659.83
9/01/96	93,333.33	60,020.64
9/01/97	93,333.33	56,589.50
PV (3/01/89)		1,112,913.51

The present value as of March 1, 1989 of $0.50 paid on March 1, 1989 and $1 paid on each September 1 thereafter is $7.48563, computed as follows:

Date	Payment	PV (5.974 percent)
3/01/89	$0.50	$0.50000
9/01/89	1.00	.97100
9/01/90	1.00	.91549
9/01/91	1.00	.86315
9/01/92	1.00	.81381
9/01/93	1.00	.76729
9/01/94	1.00	.72343
9/01/95	1.00	.68207
9/01/96	1.00	.64308
9/01/97	1.00	.60632
PV (3/01/89)		7.48563

The aggregate constant payment amount is $148,673.33 ($1,112,913.51, divided by $7.48563). See paragraph (b)(13)(iii)(C) of this section. The amount treated as paid on March 1, 1989 (the first day of the short bond year) is $74,336.67 ($148,673.33, divided by 2). See paragraph (b)(13)(ii)(B) of this section. The yield on the issue during the first yield period is 6.587 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.586752004 percent)
3/01/89		$74,336.56	$74,336.57
9/01/89	$750,000.00	148,673.33	870,020.10
9/01/90	1,393,750.00	148,673.33	1,399,542.57
9/01/91	1,393,750.00	148,673.33	1,311,720.09
9/01/92	1,651,250.00	148,673.33	1,434,652.28
9/01/93	26,651,250.00		19,909,728.39
PV issue prices (3/01/89)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(F)(*1*), and (b)(13)(ii)(B) of this section.

Example (9). (i) The facts are the same as in Example (4), except that the final maturity date of the bonds is September 1, 2003, and the bonds provide that the issuer may elect to convert the tender bonds to fixed rate bonds without a tender right. If the issuer so elects, (A) the remarketing agent determines the lowest interest rate at which tendered bonds could be remarketed on the next tender date at par without the tender right and this interest rate is the interest rate on the fixed rate bonds from that date until maturity; (B) interest on the fixed rate bonds is still payable on September 1 of each year but is not compounded semiannually; and (C) the fixed rate bonds are subject to optional redemption at 103 percent of par plus accrued interest 5 years after the conversion date or at any time thereafter. Principal and interest on the fixed rate bonds is not secured by the letter of credit issued by Bank A.

(ii) The issuer elects to convert all the tender bonds to fixed rate bonds on September 1, 1991. The interest rate on the fixed rate bonds is 8.5 percent per annum. All the bonds are outstanding on the first installment computation date (9/01/93). The bonds are treated as fixed yield bonds after the close of business on September 1, 1991. See paragraph (b)(3)(i) of this section. The aggregate issue payments taken into account on September 1, 1991 with respect to the tender bonds are the outstanding par amount of the bonds ($25 million) and accrued interest paid on that date ($1,393,750). See paragraphs (d)(2)(i)(A), (d)(2)(i)(F)(*1*), and (b)(7)(ii) of this section. The composite yield on the tender bonds (without regard to the nonlevel initial letter of credit fee) is 6.077 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.0772180296 percent)
9/01/88		$140,000.00	$140,000.00
9/01/89	$1,393,750.00	140,000.00	1,444,623.25
9/01/90	1,393,750.00	140,000.00	1,360,675.69
9/01/91	26,393,750.00		22,054,701.05
PV issue prices (9/01/88)			25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(F)(*1*), (b)(13)(ii)(A), and (b)(7)(ii) of this section. The present value as of September 1, 1988 of $1 paid on each September 1 an annual letter of credit fee is payable (*i.e.*, on each September 1 beginning 9/01/88 and ending 9/01/97) is $7.75185. The aggregate constant payment amount is $4,515.05 ($35,000 divided by $7.75185). See paragraph (b)(13)(iii)(C) of this section. This amount is taken into account as an issue payment with respect to the variable yield bonds before the conversion and with respect to the fixed yield bonds after the conversion. See paragraphs (b)(13)(ii)(B) and (b)(13)(ii)(D) of this section. The fixed yield bonds are treated as if issued immediately after the close of business on September 1, 1991 for par. See paragraphs (b)(3)(i) and (d)(2)(ii) of this section. The aggregate issue payments taken into account with respect to the fixed yield bonds on the last day of the first yield period (9/01/93) are the accrued interest paid on such date ($2,125,000) and the aggregate early retirement value of the fixed yield bonds as of such date less the interest paid on such date ($25 million). See paragraphs (d)(3)(i)(A), (d)(3)(i)(E), (b)(7)(i), (b)(8)(i), and (b)(8)(iii) of this section. The yield on the issue during the first yield period is 6.911 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (6.9110284128 percent)
9/01/88		$144,515.05	$144,515.05
9/01/89	$1,393,750.00	144,515.05	1,437,222.10
9/01/90	1,393,750.00	144,515.05	1,342,816.28
9/01/91	26,393,750.00	4,515.05	21,530,470.64
9/01/91	(25,000,000.00)		(20,390,043.25)
9/01/92	2,125,000.00	4,515.05	1,622,749.80
9/01/93	27,125,000.00		19,312,269.38
PV issue prices (9/01/88)			$25,000,000.00

See paragraphs (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(F)(*1*), (d)(2)(ii)(B), (d)(3)(i)(A), (d)(3)(i)(B), (d)(3)(i)(E), (b)(13)(ii)(A), (b)(13)(ii)(B), (b)(3)(i), (b)(7)(i), (b)(8)(i), and (b)(8)(iii) of this section.

(iii) All the bonds are outstanding on the second installment computation date (9/01/98). The issue is treated as a fixed yield issue issued as of the first day of the second yield period (9/01/93), and each fixed yield bond that is part of the issue is treated as if issued after the close of business on such date for an issue price equal to the outstanding par amount of the bond on such date. See paragraphs (b)(3)(ii), (d)(3)(ii), (b)(7)(i), (b)(8)(i), and (b)(8)(iii) of this section. The yield on the fixed yield issue as of the second installment computation date is 8.512 percent per annum compounded annually, computed as follows:

Date	Debt service	Guarantee	PV (8.5117724651 percent)
9/01/93		$4,515.05	$4,515.05
9/01/94	$2,125,000.00	4,515.05	1,962,473.75
9/01/95	2,125,000.00	4,515.05	1,808,535.34
9/01/96	2,125,000.00	4,515.05	1,666,672.01
9/01/97	2,125,000.00	4,515.05	1,535,936.58
9/01/98	2,125,000.00		1,412,455.09
9/01/99	2,125,000.00		1,301,660.69
9/01/00	2,125,000.00		1,199,557.12
9/01/01	2,125,000.00		1,105,462.65
9/01/02	2,125,000.00		1,018,749.05
9/01/03	27,125,000.00		11,983,982.67
PV issue prices (9/01/93)			25,000,000.00

See paragraphs (b)(3)(ii), (c)(2)(i), (c)(2)(ii), (c)(2)(iv), (c)(3)(ii), (b)(13)(ii)(B), (b)(13)(ii)(C), (b)(7)(i), (b)(8)(i), (b)(8)(iii), and (b)(11)(ii) of this section.

(iv) All the bonds are redeemed on September 1, 2000 at 103 percent of par ($25,750,000) plus accrued interest ($2,125,000). The aggregate early retirement value of the fixed yield bonds on September 1, 2000 is the aggregate present value, which is par ($25 million) plus accrued interest ($2,125,000). See paragraphs (b)(7)(i), (b)(8)(i), and (b)(8)(iii) of this section. The yield on the fixed yield issue as of the final computation date (9/01/00) is 8.515 percent per annum compounded annually, computed as follows:

Date	Debt service	Guarantee	PV (8.5150899027 percent)
9/01/93		$4,515.05	$4,515.05
9/01/94	$2,125,000.00	4,515.05	1,962,413.75
9/01/95	2,125,000.00	4,515.05	1,808,424.76
9/01/96	2,125,000.00	4,515.05	1,666,519.16
9/01/97	2,125,000.00	4,515.05	1,535,748.77
9/01/98	2,125,000.00		1,412,239.20
9/01/99	2,125,000.00		1,301,421.95
9/01/00	27,125,000.00		15,308,717.36
PV issue prices (9/01/93)			$25,000,000.00

See paragraphs (c)(2)(i), (c)(2)(ii), (c)(2)(iii), (b)(13)(ii)(B), and (b)(13)(ii)(C) of this section.

Example (10). The facts are the same as in Example (9), except that all the bonds are retired on March 1, 1997. The aggregate early retirement value of the fixed yield bonds on March 1, 1997 is the aggregate present value of the bonds. See paragraph (b)(7)(i) of this section. The aggregate present value of the bonds determined by using the exact method is $26,040,833.32, computed as follows:

Date	Debt service	PV (8.500 percent)
9/01/97	$2,125,000.00	$2,040,065.28
9/01/98	2,125,000.00	1,880,244.50
9/01/99	2,125,000.00	1,732,944.24
9/01/00	2,125,000.00	1,597,183.63
9/01/01	2,125,000.00	1,472,058.65
9/01/02	2,125,000.00	1,356,736.08
9/01/03	27,125,000.00	15,961,600.94
PV (3/01/97)		26,040,833.32

See paragraph (b)(8)(i) of this section. The aggregate present value of the bonds determined by using the approximate method is $26,062,500, which is higher. See paragraph (b)(8)(iii) of this section. The yield on the fixed yield issue as of the final computation date (3/01/97) is 8.542 percent per annum compounded annually, computed as follows:

Date	Debt service	Guarantee	PV (8.5419391395 percent)
9/01/93		$4,515.05	$4,515.05
9/01/94	$2,125,000.00	4,515.05	1,961,928.33
9/01/95	2,125,'000.00	4,515.05	1,807,530.20
9/01/96	2,125,000.00	2,257.53	1,660,517.37
3/01/97	26,062,500.00		19,562,509.05
PV issue prices (9/01/93)			25,000,000.00

See paragraphs (c)(2)(i), (c)(2)(ii), (c)(2)(iii), (b)(13)(ii)(B), (b)(13)(ii)(C), and (b)(13)(ii)(D) of this section.

Example (11). (i) The facts are the same as in Example (9), except that the issuer elected to convert all the tender bonds to fixed rate bonds on March 1, 1991 (instead of September 1, 1991), the interest rate on the fixed rate bonds is 8.5 percent per annum, $20 million of the bonds are tendered and remarketed at par on March 1, 1991, and all the bonds are outstanding on the first installment computation date (9/01/93).

(ii) The aggregate issue payment taken into account on March 1, 1991 with respect to the tendered bonds is par ($20 million) plus accrued interest paid on March 1, 1991

($500,000). See paragraph (d)(2)(i)(C) of this section. The aggregate issue payments taken into account with respect to the nontendered bonds on March 1, 1991 is par ($5 million) on March 1, 1991 and accrued interest to March 1, 1991 (to be paid on 9/01/91) as of September 1, 1991 ($125,000). See paragraph (d)(2)(i)(F) of this section. The yield on the tender bonds (without regard to the initial letter of credit fee) is 5.978 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (5.9782082303 percent)
9/01/88		$140,000.00	$140,000.00
9/01/89	$1,393,750.00	140,000.00	1,446,012.39
9/01/90	1,393,750.00	70,000.00	1,301,073.37
3/01/91	25,500,000.00		22,008,162.24
9/01/91	125,000.00		104,752.00
PV issue prices (9/01/88)			25,000,000.00

The present value as of September 1, 1988 of $1 paid on each September 1 an annual letter of credit fee is payable is $7.78180. The aggregate constant payment amount is $4,497.67 ($35,000 divided by $7.78180). See paragraph (b)(13)(iii)(C) of this section. The fixed yield bonds are treated as if issued on March 1, 1991 for par ($25 million). The accrued interest to be paid on the bonds that were not tendered on March 1, 1991 is not treated as interest on the fixed yield bonds issued on March 1, 1991. See paragraph (b)(3)(i) of this section. The early retirement value of the fixed yield bonds on the first installment computation date (9/01/93) is the present value of the bonds on that date. See paragraph (b)(7)(i) of this section. The yield-to-maturity on the fixed yield bonds is 8.511 percent per annum compounded annually, computed as follows:

Date	Payments	PV (8.5110819458 percent)
9/01/91	$1,062,500.00	$1,019,980.55
9/01/92	2,125,000.00	1,879,956.47
9/01/93	2,125,000.00	1,732,501.82
9/01/94	2,125,000.00	1,596,612.80
9/01/95	2,125,000.00	1,471,382.25
9/01/96	2,125,000.00	1,355,974.18
9/01/97	2,125,000.00	1,249,618.15
9/01/98	2,125,000.00	1,151,604.18
9/01/99	2,125,000.00	1,061,277.94
9/01/00	2,125,000.00	978,036.46
9/01/01	2,125,000.00	901,324.03
9/01/02	2,125,000.00	830,628.55
9/01/03	27,125,000.00	9,771,102.62
PV issue prices (3/01/91)		25,000,000.00

See paragraph (b)(5)(ii) of this section. The aggregate present value of the fixed yield bonds on September 1, 1993 determined by using the exact method is $27,106,965.13, computed as follows:

Date	Payments	PV (8.511 percent)
9/01/93	$2,125,000.00	$2,125,000.00
9/01/94	2,125,000.00	1,958,326.81
9/01/95	2,125,000.00	1,804,726.53
9/01/96	2,125,000.00	1,663,173.81
9/01/97	2,125,000.00	1,532,723.69
9/01/98	2,125,000.00	1,412,505.36
9/01/99	2,125,000.00	1,301,716.29
9/01/00	2,125,000.00	1,199,616.90
9/01/01	2,125,000.00	1,105,525.61
9/01/02	2,125,000.00	1,018,814.32
9/01/03	27,125,000.00	11,984,835.81
PV (9/01/93)		27,106,965.13

See paragraph (b)(8)(i) of this section. The aggregate present value of the bonds determined by using the approximate method is $27,125,000, which is higher. See paragraph (b)(8)(iii) of this section. The Yield on the variable yield issue as of the first installment computation date is 7.149 percent per annum compounded semiannually, computed as follows:

Date	Debt service	Guarantee	PV (7.1485008956 percent)
9/01/88		$144,497.67	$144,497.67
9/01/89	$1,393,750.00	144,497.67	1,433,912.56
9/01/90	1,393,750.00	144,497.67	1,336,654.21
3/01/91	25,500,000.00		21,393,467.67
3/01/91	(25,000,000.00)		(20,973,987.91)
9/01/91	1,187,500.00	4,497.67	965,527.42
9/01/92	2,125,000.00	4,497.67	1,607,913.85
9/01/93	27,125,000.00		19,092,014.53
PV issue prices (9/01/88)			$25,000,000.00

§ 1.148-4T Allocation and accounting rules (temporary).

(a) *General rule.* An investment is allocated to an issue for the period that—

(1) Begins on the date gross proceeds are allocated to the issue and to the investment; and

(2) Ends on the date such gross proceeds cease to be allocated to the issue or to the investment.

See § 1.148-8T for definitions and special rules relating to required rebate. See § 1.150-1T for definitions and special rules relating to tax-exempt bond requirements in general.

(b) *Allocation of gross proceeds to issue.* [Reserved]

(c) *Allocation of gross proceeds to expenditures*—(1) *In general.* [Reserved]

(2) *Expenditures from checking account.* An expenditure of proceeds in a checking or similar account may be treated as made—

(i) On the date a negotiable check is written on the account if the check is delivered or mailed no later than one business day after such date; or

(ii) On the date the check is delivered or mailed; if the payor has no reason to believe that the check will not clear within a reasonable period of time thereafter.

(d) *Allocation of gross proceeds to investments.* [Reserved]

(e) *Special allocation rules for refundings*—(1) *Allocation of excess gross proceeds of refunded issue*—(i) *Allocation of excess gross proceeds to escrow.* Excess replacement funds and excess proceeds of a refunded issue shall be allocated to investments the receipts from which are to be used to discharge the principal or interest on or the retirement price of bonds that are part of the refunded issue.

(ii) *Allocation of excess gross proceeds in escrow.* Excess replacement funds and excess proceeds of a refunded issue shall be allocated to investments described in paragraph (e)(1)(i) of this section in such manner as to ensure that the expenditure of such funds and proceeds does not occur later than the expenditure of any sale proceeds of the refunding issue that are allocated to investments described in paragraph (e)(1)(i) of this section.

(iii) *Excess replacement funds.* The term "excess replacement funds" means, with respect to a refunded issue, amounts that at the time of the issuance of the refunding issue or at any time within 6 months thereof are or were gross proceeds (other than proceeds) of the refunded issue if—

(A) The amounts are or were to be used to discharge the principal or interest on or the retirement price of any bond that is part of the refunded issue (or a related issue that is equally and ratably secured) without regard to this paragraph (e)(1);

(B) The amounts are not gross proceeds of the refunding issue after the date of issue of the refunding issue and at all times thereafter until used to discharge the principal or interest on or the retirement price of any bond that is part of the refunding issue (or until such time as this paragraph (e)(1) applies to such amounts by reason of a subsequent refunding);

(C) The amounts were not used to defease bonds (legally or economically) that are part of the refunded issue on a date earlier than the date that is 6 months before the date of issue of the refunding issue in a transaction unrelated to the issuance of the refunding issue; and

(D) The amounts are not part of a reasonably required reserve or replacement fund or bona fide debt service fund for the refunded issue after the date of issue of the refunding issue.

No amount that was part of a bona fide debt service fund for the refunded issue shall be treated as described in paragraph (e)(1)(iii)(B).

(iv) *Excess proceeds.* The term "excess proceeds" means, with respect to a refunded issue, amounts that at the time of issuance of the refunding issue are proceeds of the refunded issue if—

(A) The amounts are allocated to investments described in paragraph (e)(1)(i) of this section and are described in paragraph (e)(1)(iii)(C) or (e)(1)(iii)(D) of this section; or

(B) The amounts were to be used to pay interest on the refunded portion of the refunded issue that accrues within the period of time described in § 1.103–15(b)(2) and are described in paragraph (e)(1)(iii)(C) of this section.

(v) *Transition rule.* If a refunding issue is sold on or before May 15, 1989, and issued on or before June 14, 1989—

(A) Paragraph (e)(1)(i) of this section shall not apply;

(B) Paragraph (e)(1)(ii) of this section shall not apply to any refunding issue to which section 149(d)(4) does not apply;

(C) In the case of any refunding issue to which section 149(d)(4) applies, paragraph (e)(1)(ii) of this section—

(*1*) Shall not apply to excess replacement funds that were not gross proceeds of the refunded issue or that were part of a reasonably required reserve or replacement fund (other than a bona fide debt service fund) before the date of issue of the refunding issue or that were used to defease bonds (legally or economically) before such date;

(*2*) Shall not apply to excess proceeds of the refunded issue that were not to be used to pay interest on the refunded portion of the refunded issue that accrues within the period of time described in § 1.103–15(b)(2); and

(*3*) Shall apply only for purposes of applying paragraph (e)(2) of this section (including § 1.103–14(e)(2)(ii) if paragraph (e)(2)(iii)(A) of this section applies).

(2) *Transferred proceeds*—(i) *In general.* At the close of business on the date that any amount of the proceeds of a refunding issue are used to discharge the principal or interest on or the retirement price of any bond that is part of a refunded issue, the same amount of the proceeds of the refunded issue shall cease to be treated as proceeds of the refunded issue and shall be treated as transferred proceeds of the refunding issue.

(ii) *Special rules*—(A) *Unspent proceeds transfer first.* Proceeds of the refunded issue not allocated to expenditures shall cease to be proceeds (and become transferred proceeds) under paragraph (e)(2)(i) of this section before any other proceeds of the refunded issue.

(B) *Transfer otherwise is ratable.* Except as otherwise provided in paragraph (e)(2)(ii)(A) of this section, proceeds of the refunded issue ratably cease to be proceeds (and become transferred proceeds) under paragraph (e)(2)(i) of this section.

(C) *Transfer cap.* In the case of a refunding issue to which section 149(d)(4) applies, paragraph (e)(2)(i) of this section shall not apply on a date to the extent that it would cause the value of the nonpurpose investments allocated to the refunding portion of the issue to exceed by more than 10 percent the value of the bonds allocated (on a pro rata basis) to such portion of the issue. The value of an investment is the receipt that would be taken into account under § 1.148–2T(b)(2)(iii) on the following date if such date were an installment computation date. The value of a bond is the excess of the issue payments that would be taken into account under § 1.148–3T on the following date if the bond were retired on such date, over any amounts actually paid on such date with respect to the bond. For purposes of this paragraph (e)(2)(ii)(C), tax-exempt investments shall be treated as nonpurpose investments.

(D) *No transfer in abusive cases.* Paragraph (e)(2)(i) of this section shall not apply to the extent that the principal purpose for issuing any portion of the refunding issue is to cause proceeds of the refunded issue to cease to be treated as proceeds of the refunded issue (or to become transferred proceeds of the refunding issue).

(iii) *Transition rule*—(A) *In general.* Section 1.103–14(e)(2)(ii) shall apply (and paragraph (e)(2)(i) and (e)(2)(ii) of this section shall not apply) for purposes of determining the extent to which proceeds of a refunded issue cease to be proceeds of the refunded issue (and become transferred proceeds of the refunding issue) if the refunding issue is sold on or before May 15, 1989, and issued on or before June 14, 1989. In applying § 1.103–14(e)(2)(ii), the definition of refunding issue in § 1.148–8T(f)(2)(i) shall apply (in lieu of the definition in § 1.103–14(e)(2)(i)).

(B) *Exception.* Paragraph (e)(2)(iii)(A) of this section shall not apply to a refunding issue to which section 149(d)(4) applies if (*1*) the weighted average maturity of the refunding issue is greater than 10 years and greater than 105 percent of the remaining weighted average maturity of the refunded bonds (as of the date of issue of the refunding issue but without regard to the refunding); (*2*) less than 35 percent of the original and investment proceeds of the refunding issue to be used to pay the principal of or interest on or the retirement price of the refunded bonds is

to be used to pay principal; and (3) a forward purchase contract was entered into in connection with the issuance of the refunding issue in order to invest amounts other than such proceeds and to use such amounts to discharge principal of bonds that are part of a refunded issue. The preceding sentence shall not apply if the Commissioner determines that the refunding issue is not described in section 149(d)(4) (without regard to this paragraph (e)(2)(iii)(B)).

(C) *Average maturity, etc.* For purposes of paragraph (e)(2)(iii)(B) of this section (1) the term "refunded bonds" means bonds the principal of or interest on or the retirement price of which is to be discharged with proceeds of the refunding issue; (2) the weighted average maturity is determined by taking into account the respective issue prices of the bonds; and (3) if the present value of a bond (determined as provided in § 1.148-3T) is at any time greater than 110 percent of the issue price of the bond, the average of the present values of the bond as of the first day of each bond year shall be treated as the issue price.

§ 1.148-5T Transactions giving rise to imputed receipts (temporary).

(a) *In general.* [Reserved]

(b) *Certain temporary investment accounts*—(1) *No receipt imputed.* No receipt shall be imputed with respect to investments of gross proceeds of an issue in a nonpurpose receipt account on any day during a calendar month if the average daily balance in the account during the month does not exceed the greater of—

(i) $10,000; and

(ii) The lesser of (A) 10 percent of the unspent gross proceeds of the issue, and (B) $50,000.

(2) *Bond yield limit.* No receipt shall be imputed with respect to investments of gross proceeds of an issue in a nonpurpose receipt account, a purpose receipt account, or a checking account on any day during a calendar month to the extent that the receipt would cause the yield on the investments of gross proceeds of the issue in such account during such month to exceed the yield on the issue if the average daily balance in the account during the month does not exceed the greater of—

(i) $250,000; and

(ii) The lesser of (A) 10 percent of the unspent gross proceeds of the issue, and (B) $2.5 million.

(3) *Qualified accounts.* For purposes of paragraphs (b)(1) and (b)(2) of this section—

(i) *Nonpurpose receipt account.* The term "nonpurpose receipt account" means a demand deposit or similar account with a bank, trust company, or broker if—

(A) The account is used for the purpose of holding amounts received with respect to investments (other than purpose investments) for a short period of time until the amounts can be reinvested at an arm's length interest rate;

(B) Substantially all such amounts are in the account for five business days or less before being used for such purpose; and

(C) Substantially all investments acquired with such amounts are not demand deposits and are held, on the average, for a period of 30 days or more.

(ii) *Purpose receipt account.* The term "purpose receipt account" means an account that would be a nonpurpose receipt account if paragraph (b)(3)(i)(A) of this section were applied by substituting "purpose investments" for "investments (other than purpose investments)".

(iii) *Checking account.* The term "checking account" means a checking or similar account if—

(A) The account is used for the purpose of holding funds for a short period of time until the funds are used to pay expenditures; and

(B) Substantially all such funds are transferred to the account no earlier than five business days before such funds are used to pay expenditures.

(iv) *Disqualified account.* Paragraphs (b)(1) and (b)(2) of this section shall not apply to an account if all or any portion of the account is formed or availed of for the principal purpose of taking advantage of this paragraph (b).

(4) *Aggregation of accounts.* For purposes of applying paragraphs (b)(1) and (b)(2) of this section—

(i) All nonpurpose receipt accounts in which gross proceeds of an issue are invested shall be treated as one separate account;

(ii) All purpose receipt accounts in which gross proceeds of an issue are invested shall be treated as one separate account;

(iii) All checking accounts in which gross proceeds of an issue are invested shall be treated as one separate account; and

(iv) Gross proceeds of an issue and funds (other than gross proceeds of the issue) shall not be treated as in the same account.

(5) *Gross proceeds.* For purposes of paragraphs (b)(1) and (b)(2) of this section, the term "gross proceeds" shall not include—

(i) Any amount that may not be invested in higher yielding investments (as defined in section 148(b)(1)) without causing bonds that are part of the issue to be arbitrage bonds (as defined in section 148(a)); and

(ii) Any amount that is part of a reserve or replacement fund that is not a bona fide debt service fund.

(c) *Certain imputed escrow receipts*—(1) *Defeasance receipt*—(i) *In general.* Any interest saving with respect to a bond that is directly attributable to an investment in an escrow shall be treated as an imputed receipt with respect to such investment. The preceding sentence shall not apply to the extent that the interest saving is eliminated by payment of a similar amount with respect to a refunding bond. No interest saving is eliminated by a similar payment if the similar payment may be taken into account under § 1.148-3T in computing the yield on the issue of which the refunding bond is a part.

(ii) *Interest saving.* The term "interest saving" means, with respect to a bond—

(A) Any reduction in a payment of interest on the bond;

(B) Any reduction in a payment for a guarantee with respect to a bond or a purpose investment; and

(C) Any recovery of a payment described in paragraph (c)(2)(ii)(A) or (c)(2)(ii)(B) of this section.

(iii) *Transition rule.* This paragraph (c)(1) shall apply to an issue sold on or before May 15, 1989, and issued on or before June 14, 1989 only to the extent that the interest saving is attributable to an investment in an escrow established after June 14, 1989. The preceding sentence shall not apply to a refunding issue to which section 149(d)(4) applies if any interest saving described in paragraph (c)(1)(ii)(A) or (c)(1)(ii)(C) of this section that is attributable to investments (other than transferred investments) that are allocated to the issue and in an advance refunding escrow is not taken into account in computing the yield on such issue for purposes of § 1.148-3T.

(iv) *Savings treated as paid in computing yield on defeased bond.* A payment with respect to a bond that is reduced or recovered shall nonetheless be treated as paid with respect to the bond for purposes of § 1.148-3T if the interest saving from the reduction or recovery is treated as an imputed receipt with respect to an investment under paragraph (c)(1)(i) of this section (or is taken into account in computing the yield on a refunding issue under paragraph (c)(1)(iii) of this section).

(2) *Excess tax-exempt receipt*—(i) *In general.* Any excess receipts from tax-exempt investments in an escrow established after June 14, 1989, shall be treated as imputed receipts with respect

to the nonpurpose investments in the same escrow.

(ii) *Excess receipts.* There are excess receipts from tax-exempt investments in an escrow if—

(A) The composite yield on the tax-exempt investments in the escrow exceeds the composite yield on the nonpurpose investments in the same escrow by more than one-eighth of one percent; and

(B) The weighted average maturity of the tax-exempt investments in the escrow (determined as provided in § 1.148–4T(e)(2)(iii)(C) (*2*) and (*3*) but without regard to any investment that is in the escrow for 3 months or less) is more than 25 percent greater or less than the weighted average maturity of the nonpurpose investments in the escrow (determined in the same manner).

The excess receipts are all the receipts with respect to the tax-exempt investments in excess of the receipts that produce a composite yield on the tax-exempt investments no greater than one-eighth of one percent higher than the composite yield on the nonpurpose investments.

(3) *Escrow.* An investment is in an escrow if the investment is in an advance refunding escrow or an excess proceeds escrow. For purposes of the preceding sentence, § 1.148–8T(g) shall be applied by treating every investment (other than a purpose investment) as a nonpurpose investment, and § 1.148–8T (g)(3) and (g)(4) shall be applied by substituting "gross proceeds" for "proceeds" each place it appears.

(4) *Examples.* The following examples illustrate the application of this paragraph (c):

Example (1). (i) In June 1989 City E issues a refunding issue the proceeds of which are to be used (together with other available funds) to defease all the outstanding bonds that are part of a refunded issue. The other available funds to be used to defease the outstanding bonds are proceeds of the refunded issue that were in a reasonably required reserve fund for the refunded issue, gross proceeds of the refunded issue that were in a bona fide debt service fund for the refunded issue, and other available funds that were not gross proceeds of the refunded issue before the date of issue of the refunding issue. A portion of the investments acquired with the proceeds of the refunding issue and the other available funds are tax-exempt investments. All of the investments allocated to the proceeds of the refunding issue that are to be used to defease the outstanding bonds are in the same advance refunding escrow. All of the investments allocated to the other available funds are in the same excess proceeds escrow. See paragraph (c)(3) of this section.

(ii) The terms of the outstanding bonds provide that the 9 percent interest rate otherwise payable on any bond that is defeased is reduced by one percent per annum. All of the reduced payments of interest resulting from the defeasance of the outstanding bonds are interest savings described in paragraph (c)(1)(ii)(A) of this section. Since the interest savings are directly attributable to the investments in the escrows, the savings are treated as imputed receipts with respect to the investments for purposes of § 1.148–2T. The allocation rules in § 1.148–4T(e)(1) apply for purposes of determining the portion of the interest savings that are allocated to each investment. The reduction in the 9 percent interest rate on the outstanding bonds is not taken into account in computing the yield on the outstanding bonds (or the issue of which such bonds are a part) under § 1.148–3T. See paragraph (c)(1)(iv) of this section.

Example (2). The facts are the same as in Example (1), except that (instead of a one percent reduction in payments of interest on the outstanding bonds), the defeasance results in a one percent reduction in payments for a guarantee with respect to the outstanding bonds. The outstanding bonds were secured by a letter of credit. The letter of credit is not a qualified guarantee (within the meaning of § 1.148–3T(b)(12)). The annual letter of credit fee payable each year is equal to one percent of the outstanding principal amount of the bonds. The terms of the outstanding bonds provide that the letter of credit is not required to secure bonds that have been defeased. As a result of the defeasance, City E is no longer required to pay the annual letter of credit fees. Assume that City E will pay identical annual letter of credit fees for a letter of credit to secure the refunding issue, and that this letter of credit is a qualified guarantee (within the meaning of § 1.148–3T(b)(12)). The reductions in the payments for the letter of credit fees with respect to the outstanding bonds are interest savings described in paragraph (c)(1)(ii)(B) of this section that are directly attributable to the investments in the escrows. These interest savings are treated as imputed receipts with respect to the escrow investments. The interest savings would not be treated as imputed receipts if the letter of credit securing the refunding issue was not a qualified guarantee (within the meaning of § 1.148–3T(b)(12)).

Example (3). The facts are the same as in Example (2), except that the entire letter of credit fee was prepaid on the date of issue of the outstanding bonds, and a portion of the prepaid fee is refunded by the guarantor when the outstanding bonds are defeased. The portion of the refunded fee that is properly allocable to the period that begins on the date the outstanding bonds are defeased and that ends on the date the outstanding bonds are retired is an interest saving directly attributable to the investments in the escrows. The portion of the refunded fee properly allocable to the period beginning on the date the outstanding bonds are retired and ending on the final maturity date of the outstanding bonds is not attributable to the investments in the escrows. The constant payment allocation method is a proper method of allocating the refund for this purpose. See § 1.148–3T(b)(13)(iii)(C).

§ 1.148–6T 6-month temporary investment exception and other special rules (temporary). [Reserved]

§ 1.148–7T Exception for small issuers with general taxing powers (temporary). [Reserved]

§ 1.148–8T Definitions and special rules relating to required rebate (temporary).

(a) *Applicability.* The definitions and rules in this section apply for purposes of this section and §§ 1.148–0T through 1.148–7T except to the extent otherwise provided. See § 1.150–1T for definitions and special rules relating to tax-exempt bond requirements in general.

(b) *Computations and determinations*—(1) *Computation dates*—(i) *In general.* The term "computation date" means an installment computation date or the final computation date.

(ii) *Installment date.* The term "installment computation date" means, with respect to an issue, the last day of the fifth and each succeeding fifth bond year.

(iii) *Final date.* The term "final computation date" means, with respect to an issue, the date the last bond that is part of the issue is discharged.

(iv) *Other date.* If the Commissioner determines that an issue is likely to fail to meet the requirements of § 1.148–1T and that a failure to serve a notice of demand for payment on the issuer will jeopardize the assessment or collection of tax on interest paid or to be paid on the issue, the date the Commissioner serves such notice on the issuer shall be treated as a computation date. The Commissioner shall designate in the notice whether such date shall be treated as an installment computation date or a final computation date (whichever is necessary to carry out the purposes of this paragraph (b)(1)(iv)).

(2) *Bond year.* The term "bond year" means, with respect to an issue, each 1-year period (or shorter period from the date of issue) that ends at the close of business on the day in the calendar year that is selected by the issuer. The day selected by the issuer must be the last day of a compounding interval used in computing the yield on the issue under § 1.148–3T.

(3) *Discharge.* A bond is discharged on the date all amounts due thereunder are actually and unconditionally due if cash is available at the place of payment, and no interest accrues with respect to the bond after such date. See § 1.150–1T(d)(2) for definition of actually and unconditionally due. An amount is paid or used to discharge the principal or interest on or the retirement price of a bond on the date such principal or

interest or retirement price is actually and unconditionally due if cash is available at the place of payment, and no interest accrues with respect to such payment after such date.

(4) *Actual facts.* Except as otherwise provided, all computations and determinations shall be made on the basis of actual facts as of the computation date and reasonable expectations as to future events.

(5) *Present value.* The present value of an amount to be received or paid is determined by using the following formula:

$$PV = \frac{FV}{(1+i)^n}$$

where:

PV = The present value of the amount to be received or paid.

FV = The amount to be received or paid.

i = The discount rate (expressed as a decimal) divided by the number of compounding intervals in a year.

n = The sum of the number of whole compounding intervals during the period beginning on the date as of which the present value is computed and ending on the date the amount is to be received or paid, and a fraction, the numerator of which is the length of any short compounding interval during such period, and the denominator of which is the length of a whole compounding interval.

(6) *Conventions*—(i) *Whole intervals.* All whole intervals and compounding intervals, whether expressed annually, semiannually, monthly, or with reference to any other regular interval, shall be treated as having equal length.

(ii) *Short intervals.* In computing the length of any short interval or compounding interval, either the 30 days per month/360 days per year convention or the actual days per month/actual days per year convention shall be consistently used; provided that, either convention may be consistently used for each investment. The examples herein use the 30 days per month/360 days per year convention.

(iii) *Yield.* Yield is an annual percentage rate and, when expressed as a decimal, shall be accurate to at least six places (and rounded to at least five).

(iv) *Other conventions.* Other standard financial conventions may be used. For example, amounts payable on the first business day of a month may be treated as if payable on the first day of the month.

(c) *Issue price*—(1) *In general.* The term "issue price" has the meaning given such term by sections 1273 and 1274. Thus, if bonds are publicly offered (*i.e.*, sold by the issuer to a bond house, broker, or similar persons acting in the capacity of underwriters or wholesalers) and are not issued for property, the issue price of the bonds is determined on the basis of the initial offering price to the public at which price a substantial amount of the bonds was sold to the public. Such price shall be determined separately for bonds that are not substantially identical. Such price also shall be determined separately for substantially identical bonds that are sold at one price to the general public and to institutional or other investors at a discount from that price. If a bond is sold to the public after the date of issue, the price at which the bond is sold must be adjusted to reflect the price at which the bond would have been sold on the date of issue. This adjustment shall eliminate any change in the fair market value of the bond after the date of issue (including any change attributable to interest and premium or discount that accrues on the bond after such date). If a bond is issued for property, appropriate adjustments shall be made to the applicable Federal rate to take into account the tax exemption of the bond in applying section 1274. See section 1288(b)(1).

(2) *Special rules.* For purposes of determining the issue price of a bond under paragraph (c)(1) of this section—

(i) *Reasonable expectations.* Except as otherwise provided in this paragraph (c)(2), the issue price of a bond that is publicly offered shall be determined on the basis of actual facts and reasonable expectations as of the sale date and shall not be adjusted to take into account actual facts after such date. See § 1.150–1T(c)(1) for definition of sale date.

(ii) *Bonds offered at a discount.* If substantially identical bonds are offered at one price to the general public and at a discount from that price to institutional or other investors, the determination as to which bonds are sold at each price shall be made on the basis of actual facts and reasonable expectations as of the date of issue. See § 1.150–1T(c)(2) for definition of date of issue.

(iii) *Bona fide offering required.* Paragraph (c)(2)(i) and (c)(2)(ii) of this section shall not apply to any bond that is not actually offered to the general public in a bona fide public offering for the issue price of the bond (determined without regard to this sentence).

(iv) *Tender bond remarketing.* For purposes of determining the issue price of a tender bond under § 1.148–3T(d)(2)(ii)(A) when the bond is remarketed, this paragraph (c) shall be applied by treating the date on which the interest rate is reset as the sale date and the date on which the bond is remarketed as the date of issue.

(3) *Fair market value limit.* In no event shall the issue price of a bond determined under this paragraph (c) exceed the fair market value of the bond as of the sale date.

(4) *Aggregate issue price.* The term "aggregate issue price" refers to the sum of the issue prices of the bonds issued as part of the issue as determined under this paragraph (c) (but without regard to any tender bond remarketing).

(d) *Gross proceeds*—(1) *In general.* The term "gross proceeds" means, with respect to an issue, any proceeds of the issue and any funds (other than proceeds of the issue) that are part of a reserve or replacement fund for the issue.

(2) *Proceeds.* The term "proceeds" means, with respect to an issue, any original proceeds, any discount proceeds, and any transferred proceeds of the issue.

(3) *Original proceeds.* The term "original proceeds" means, with respect to an issue, any sale proceeds and any investment proceeds of the issue. Such term shall also include any amount recovered with respect to the issue under § 1.148–1T(d). Such term shall not include amounts actually or constructively received with respect to a purpose investment to the extent such amounts are properly allocated to administrative costs recoverable under § 1.103–13(c)(5) or to the higher yield permitted under § 1.103–13(b)(5)(i)(A). For purposes of the preceding sentence, a purpose investment that is a tax-exempt bond shall not be treated as tax-exempt.

(4) *Sale proceeds.* The term "sale proceeds" means, with respect to an issue, any amounts actually or constructively received from the sale (or other disposition) of any bond that is part of the issue.

(5) *Investment proceeds.* The term "investment proceeds" means, with respect to an issue, any amounts actually or constructively received from investing original proceeds of the issue.

(6) *Net sale proceeds*—(i) *In general.* The term "net sale proceeds" means, with respect to an issue, any sale proceeds of the issue (without regard to § 1.148–4T(e)(2) and § 1.103–14(e)(2)(ii)) other than—

(A) Sale proceeds that are part of a reasonably required reserve or replacement fund;

(B) Sales proceeds used to pay accrued interest included in the issue price of any bond that is part of the issue no later than the date that is less than one year after the date of issue;

(C) Sale proceeds used to pay capitalized interest on the issue that accrues no later than the date that is 3 years after the date of issue; and

(D) Sale proceeds received with respect to a purpose investment that are allocated to an expenditure no later than 13 months after the date of receipt thereof.

(ii) *Capitalized interest.* The term "capitalized interest" means, with respect to an issue, interest paid on the sale proceeds of the issue that have been allocated to an expenditure if—

(A) The expenditure is not for the payment of the principal or interest on or the retirement price of any bond; and

(B) The expenditure is of a type that is chargeable to capital account for Federal income tax purposes (with or without an election by a taxpayer). Such term shall also include interest on the sale proceeds of the issue that are allocated to expenditures for the payment of capitalized interest on the issue.

(iii) *Special rules for refunded and refunding issues.* For purposes of applying any requirement relating to the expenditure of the net sale proceeds of a refunded issue or refunding issue—

(A) Net sale proceeds properly allocated to the refunding portion of an issue shall not be treated as net sale proceeds;

(B) Net sale proceeds properly allocated to the refunded portion of an issue shall be treated as net sale proceeds of the refunded issue and of the refunding issue; and

(C) The requirement shall be treated as met with respect to a refunding issue only if the requirement is met separately with respect to the nonrefunding portion of the issue and each refunding portion of the issue.

(7) *Discount proceeds.* [Reserved]

(8) *Transferred proceeds.* The term "transferred proceeds" means, with respect to a refunding issue, proceeds that have ceased to be proceeds of a refunded issue and are transferred proceeds of the refunding issue by reason of § 1.148–4T(e)(2) (including amounts actually or constructively received from investing such proceeds).

(9) *Indirect use*—(i) *In general.* Any reference to proceeds shall be construed to include a reference to proceeds used directly or indirectly. Such reference has the same meaning as when used in section 148(a). If proceeds are used directly and indirectly, the proceeds shall be treated as used directly or indirectly (whichever produces the larger amount of rebatable arbitrage).

(ii) *Examples.* The following examples illustrate the application of this paragraph (d)(9):

Example (1). The facts are the same as in Example (1) in paragraph (g)(5) of this section, except that $1 million of the proceeds of the 1985 issue are not used directly to discharge the 1983 issue. Instead, as part of the very same transaction or a series of closely related and interdependent transactions, City A deposited this $1 million of proceeds of the 1985 issue into its General Fund and transferred approximately the same amount from its General Fund to the trustee for the 1983 issue. City A had been advised by its tax counsel that this substitution of fully fungible dollars would result in greater debt service savings from the refunding. A nonpurpose investment is in an advance refunding escrow if the investment is allocated to proceeds to which § 1.103–13(b)(5)(iii) applies. See paragraph (g)(2)(i) of this section. Section 1.103–13(b)(5)(iii) applies to proceeds used directly or indirectly to discharge the 1983 issue. See § 1.103–13(b)(1) and (f)(4)(ii). City A used proceeds of the 1985 issue indirectly to discharge the 1983 issue and to purchase the investments purchased directly with the money transferred from the General Fund. Consequently, if the 1985 issue is refunded in 1987 and the larger amount of rebatable arbitrage is produced by allocating these proceeds of the 1985 issue to the investments indirectly acquired with such proceeds, the result is the same as in Example (1) in paragraph (g)(5) of this section.

Example (2). The facts are the same as in Example (1), except that the proceeds of the 1985 issue were not transferred to the General Fund and money in the General Fund was not transferred to the trustee for the 1983 issue. Instead, the same substitution of fully fungible dollars was arranged with respect to funds that were in a General Construction Fund or Pension Fund, proceeds of the 1983 issue that were in the City Office Building Construction Fund established with proceeds of the 1983 issue, gross proceeds in a restricted escrow established with proceeds of a 1980 issue, or gross proceeds in a debt service reserve or replacement fund allocated to an issue other than the 1983 issue. The result is the same as in Example (1).

(10) *Reserve or replacement fund*—(i) *In general.* [Reserved]

(ii) *Certain perpetual trust funds*—(A) *In general.* A fund described in paragraph (d)(10)(ii)(B) of this section shall not be treated as a reserve or replacement fund solely by reason of the fact that the fund is used to guarantee the payment of the principal or interest on or the tender or retirement price of a bond described in paragraph (d)(10)(ii)(D) of this section. The preceding sentence shall not apply to a guarantee if any fee is charged for the guarantee in excess of a nominal charge for administrative costs, shall not apply to a fund unless the fund is described in paragraph (d)(10)(ii)(B) of this section on August 31, 1986, and shall not apply to a fund on or after the date the fund is no longer described in paragraph (d)(10)(ii)(B) of this section.

(B) *Fund described.* A fund established pursuant to a State constitutional provision is described in this paragraph (d)(10)(ii)(B) if—

(*1*) Substantially all of the corpus of the fund consists of long-term nonfinancial assets, revenues derived from such assets, gifts, and bequests;

(*2*) Pursuant to such constitutional provision, the corpus of the fund may not be invaded for any purpose other than for the support of specifically designated essential governmental functions carried on by political subdivisions of the State with general taxing powers; and

(*3*) Pursuant to such constitutional provision, substantially all of the available income of the fund is required to be applied annually for the support of such functions.

(C) *Treatment of additions to fund*—(*1*) *In general.* For purposes of paragraph (d)(10)(ii)(A) of this section, no addition to the corpus of a fund described in paragraph (d)(10)(ii)(B) of this section on or after May 15, 1989, shall be considered part of a fund described in paragraph (d)(10)(ii)(B) of this section. For purposes of the preceding sentence, all revenues derived from assets that are part of the corpus of a fund (exclusive of amounts received from the sale or other disposition of such assets) shall be treated as additions to the corpus of a fund.

(*2*) *Allocation rule.* Additions to which paragraph (d)(10)(ii)(C)(*1*) of this section applies shall be considered used to guarantee bonds described in paragraph (d)(10)(ii)(D) of this section only to the extent that the outstanding amount of the bonds guaranteed by the fund exceeds 250 percent of the lower of the amortized cost or fair market value of the fund (without regard to the additions).

(D) *Bond described.* A bond is described in this paragraph (d)(10)(ii)(D) if—

(*1*) The bond is a general obligation of a political subdivision referred to in paragraph (d)(10)(ii)(B)(*2*) of this section and is not a private activity bond;

(*2*) No income referred to in paragraph (d)(10)(ii)(B)(*3*) of this section is reasonably expected (as of the date of issuance of the bond) to be used (directly or indirectly) for the payment of the principal or interest on or the tender or retirement price of any bond of such political subdivision or to fund a reserve or replacement fund for any such bond; and

(*3*) Substantially all of the proceeds of the issue of which the bond is a part is to be used to provide facilities necessary to carry on the functions

referred to in paragraph (d)(10)(ii)(B)(*2*) of this section.

(e) *Investments*—(1) *In general.* The term "investment" means any investment property or tax-exempt bond. The purpose of acquiring or holding an investment is not a governmental purpose, and the use of gross proceeds to acquire an investment is not an expenditure. If an investment is allocated to more than one source, all payments and receipts with respect to the investment shall be allocated ratably to each source.

(2) *Investment property.* The term "investment property" means any security, obligation, annuity contract, or investment-type property. Such term shall not include any tax-exempt bond or qualified exempt investment. In the case of any bond (other than a private activity bond) issued after October 21, 1988 and to which section 148(b)(2)(E) applies, such term shall also include any residential rental property for family units not located within the jurisdiction of the issuer unless such property is acquired to implement a court ordered or approved housing or segregation plan.

(3) *Tax-exempt bond.* For purposes of paragraphs (e)(2) and (e)(3)(iii) of this section—

(i) *In general.* The term "tax-exempt bond" shall not include any bond owned by a person if the person had reason to believe (at the time the person entered into a binding contract to acquire the bond) that interest on the bond is not excluded from gross income.

(ii) *AMT bond.* The term "tax-exempt bond" shall not include a specified private activity bond (as defined in section 57(a)(5)(C)) in the case of an issue that is issued after March 31, 1988 and a part of which is not a specified private activity bond (as so defined). The preceding sentence shall not apply for purposes of paragraph (e)(3)(iii) of this section if the requirements of paragraph (e)(3)(iii) are satisfied, determined without regard to paragraph (e)(3)(iii)(C) and by substituting "85 percent" for "98 percent" in paragraph (e)(3)(iii)(D).

(iii) *Tax-exempt mutual fund.* The term "tax-exempt bond" shall include stock of a corporation during any quarter of the taxable year of the corporation that—

(A) The corporation is a regulated investment company (as defined in section 851(a)) which, for the taxable year, meets the requirements of section 852(a);

(B) The corporation has authorized and outstanding only one class of stock;

(C) The corporation to the extent practicable invests all its assets in tax-exempt bonds;

(D) At least 98 percent of—

(*1*) The gross income of the corporation (without regard to the exclusion of interest from gross income under section 103) is derived from interest on or gains from the sale or other disposition of tax-exempt bonds; or

(*2*) The weighted average value of the assets of the corporation is represented by investments in tax-exempt bonds.

The Commissioner may for good cause waive one or more of the requirements of this paragraph (e)(3)(iii).

(4) *Qualified exempt investment*—(i) *In general.* The term "qualified exempt investment" means any exempt demand deposit and any exempt temporary investment.

(ii) *Exempt demand deposit.* The term "exempt demand deposit" means any obligation acquired with gross proceeds of an issue if—

(A) The obligation is a one-day certificate of indebtedness issued by the United States Treasury pursuant to the Demand Deposit State and Local Government Series program described in 31 CFR Part 344; and

(B) The issuer in good faith attempts to comply with all the requirements of such program relating to the investment of the gross proceeds of the issue.

(iii) *Exempt temporary investment.* [Reserved]

(5) *Security.* [Reserved]

(6) *Obligation.* [Reserved]

(7) *Annuity contract.* [Reserved]

(8) *Investment-type property.* [Reserved]

(9) *Nonpurpose investment.* The term "nonpurpose investment" means any investment property that is not a purpose investment.

(10) *Purpose investment.* The term "purpose investment" means any investment that is allocated to gross proceeds of an issue and that is acquired in order to carry out the governmental purpose of the issue. Such term does not include any temporary investment until the proceeds of the issue are needed for the governmental purpose of the issue, any investment that is acquired in order to fund a reserve or replacement fund, or any other investment if the principal purpose for acquiring the investment is to earn arbitrage.

(11) *Transferred investment.* The term "transferred investment" means, with respect to an issue, any investment allocated to transferred proceeds of the issue.

(12) *SLG.* The term "SLG" means a time deposit security issued by the United States Treasury pursuant to the Time Deposit State and Local Government Series program described in 31 CFR Part 344.

(13) *Fixed rate investment.* The term "fixed rate investment" means any investment that is a fixed yield bond and is not purchased pursuant an investment contract. See § 1.150–1T(b)(5) for definition of fixed yield bond.

(14) *Investment contract.* The term "investment contract" means, with respect an issue, a contract entered into for the purpose of investing gross proceeds of the issue (and related amounts) from time to time in obligations of the other party to the contract at an interest rate or rates specified in the contract if all such obligations are purchased at par and retired or redeemed at par plus accrued interest.

(f) *Issues*—(1) *In general.* [Reserved]

(2) *Refundings*—(i) *Refunding issue.* The term "refunding issue" means an issue any portion of the proceeds of which are used to discharge the principal or interest on or the retirement price of any bond that is part of another issue.

(ii) *Refunded issue.* The term "refunded issue" means an issue if any portion of the principal or interest on or the retirement price of any bond that is part of the issue is discharged with proceeds of another issue.

(g) *Restricted escrows*—(1) *In general.* An investment is in a restricted escrow if the investment is a nonpurpose investment that is in an advance refunding escrow or an excess proceeds escrow.

(2) *Advance refunding escrow.* An investment is in an advance refunding escrow if the investment is a nonpurpose investment—

(i) That is allocated to proceeds to which § 1.103–13(b)(5)(iii) applies (without regard to an initial temporary period of no longer than 30 days or the effective date of such provision); and

(ii) That is not properly allocated to the nonrefunding portion of the refunding issue.

In applying § 1.103–13(b)(5)(iii) for purposes of paragraph (g)(2)(i) of this section, the definition of refunding issue in paragraph (f)(2)(i) of this section shall apply (in lieu of the definition in § 1.103–14(e)(2)(i)).

(3) *Excess proceeds escrow.* An investment is in an excess proceeds escrow if—

(i) The investment is a nonpurpose investment that is not in an advance refunding escrow;

(ii) The proceeds allocated to the investment are to be used to discharge the principal or interest on or the

retirement price of any bond that is part of the issue to which such proceeds are allocated (without regard to § 1.148–4T(e)(2) and § 1.103–14(e)(2)(ii)); and

(iii) Such proceeds are not part of a reasonably required reserve or replacement fund and may not be invested in higher yielding investments for a reasonable temporary period under section 148(c) (or under section 103(c)(4) of the 1954 Code).

(4) *Same escrow.* Except as otherwise provided in this paragraph (g)(4), investments are in the same restricted escrow (whether or not held concurrently) if the investments are (or were or will be) allocated to proceeds of the same issue (without regard to § 1.148–4T(e)(2) and § 1.103–14(e)(2)(ii)). Investments in an advance refunding escrow are not in the same restricted escrow as investments in an excess proceeds escrow. Investments in excess proceeds escrows that were not established at or around the same time are not in the same restricted escrow.

(5) *Examples.* The following examples illustrate the application of this paragraph (g):

Example (1). (i) In 1983, City A issues an issue (the "1983 issue") to finance the construction of a City office building and to refund two prior issues. A portion of the proceeds of the 1983 issue (including investment proceeds) are to be used to discharge the prior issues in 1995. Prior to the discharge date, such proceeds will be held by the respective trustees for the two prior issues. All nonpurpose investments allocated to such proceeds are and will continue to be (until the 1995 discharge date) in the same advance refunding escrow (the "1983 advance refunding escrow"). See paragraph (g)(2) and (g)(4) of this section.

(ii) In 1985, City A issues an issue (the "1985 issue") to refund a portion of the 1983 issue. Proceeds of the 1985 issue (including investment proceeds) are to be used to discharge interest on the 1983 issue, to discharge principal of and call premium on the 1983 issue in 1990, and to fund a reasonably required reserve fund for the 1985 issue. Amounts that were in a bona fide debt service fund for the 1983 issue also will be used to discharge principal of the 1983 issue in 1990. The proceeds of the 1985 issue and amounts that were in the bona fide debt service fund for the 1983 issue that are to be used to discharge the 1983 issue will be held by the trustee for the 1983 issue, and the proceeds of the 1985 issue in the reserve fund will be held by the trustee for the 1985 issue. All nonpurpose investments allocated to these proceeds of the 1985 issue are and will continue to be (until the 1990 discharge date) in the same advance refunding escrow (the "1985 advance refunding escrow"). See paragraph (g)(2) and (g)(4) of this section. The proceeds in the 1985 advance refunding escrow are not (and never will be) in the same advance refunding escrow as the proceeds in the 1983 advance refunding escrow. See paragraph (g)(4) of this section. Investments allocated to amounts that were in the bona fide debt service fund for the 1983 issue are not in a restricted escrow.

(iii) A transfer occurs in 1990 when a portion of the 1983 issue is discharged with proceeds of the 1985 issue. To the extent of this transfer, a ratable portion of the proceeds (and investments and expenditures) of the 1983 issue cease to be treated as proceeds (and investments and expenditures) of the 1983 issue and become transferred proceeds (and transferred investments and expenditures) of the 1985 issue. See § 1.148–4T(e)(2)(iii)(A). The nonpurpose receipt with respect to the 1983 issue and the nonpurpose payment with respect to the 1985 issue that arise by reason of this transfer equal the present value of the transferred investments at the time of the transfer. See § 1.148–2T(b)(2)(ii), (b)(3)(ii), and (d)(3)(i)(B). The discount rate used in computing this present value is the yield on all nonpurpose investments (including the transferred investments) in the 1983 advance refunding escrow. That yield is not affected by this (or any other) transfer. See § 1.148–2T(e)(2)(ii).

(iv) After the 1990 discharge date, nonpurpose investments allocated to the proceeds of the 1985 issue in the reserve fund for the 1985 issue cease to be in the 1985 advance refunding escrow. See paragraph (g)(2)(i) of this section. These investments are at the same time treated as if sold and purchased for present value. The receipt arising from this sale is a receipt with respect to an investment in the 1985 advance refunding escrow; the payment arising from this purchase is a payment with respect to an investment that is not in a restricted escrow. See § 1.148–2T(b)(5)(i)(A).

Example (2). (i) The facts are the same as in Example (1), except that City A issues an issue in 1987 (the "1987 issue") to refund a portion of the 1985 issue. Proceeds of the 1987 issue (including investment proceeds) are to be used to discharge a portion of the 1985 issue in 1989. Proceeds of the 1985 issue that were in the reserve fund for the 1985 issue (including investment proceeds) are to be used to discharge a portion of the 1985 issue in 1991.

(ii) In 1989, a ratable portion of the investments allocated to the proceeds of the 1985 issue (including the proceeds that were in the reserve fund for the 1985 issue) transfer to the 1987 issue. See § 1.148–4T(e)(2)(iii)(A).

(iii) In 1990, the investments allocated to the proceeds of the 1985 issue that were in the reserve fund for the 1985 issue (including the investments that transferred in 1989) cease to be in the 1985 advance refunding escrow. See paragraph (g)(2)(i) of this section. These investments at the same time become investments in an excess proceeds escrow. See paragraph (g)(3) of this section. These investments at the same time are treated as if sold and purchased for present value. See § 1.148–2T (b)(5)(i)(A) and (b)(5)(i)(B) (last sentence). This present value is computed by using the yield on all the investments in the 1985 advance refunding escrow as the discount rate. This is the same yield referred to in Example (1)(iii) (the yield on the investments in the excess proceeds escrow also is the same). The investments in the excess proceeds escrow that are transferred investments of the 1987 issue are treated as in an advance refunding escrow for purposes of the first sentence of § 1.148–2T(b)(5)(i)(A).

(h) *Elections*—(1) *In general.* Any election with respect to an issue must be in writing and must be signed by an authorized representative of the issuer on or before the later of—

(i) The date of issue; and

(ii) If the issue is issued on or before November 15, 1989, the first date after June 14, 1989, that any amount with respect to the issue is paid or required to be paid to the United States under § 1.148–1T(b)(1).

An election, once made, shall be irrevocable after such date.

(2) *Procedural requirements.* If the rebatable arbitrage with respect to an issue (determined by taking into account an election) is smaller than the rebatable arbitrage (determined without taking into account the election), the election shall be effective only if the election identifies the issue to which it applies and is maintained as part of the official transcript of the proceedings relating to the issuance of the issue until 6 years after the final computation date. The Commissioner may waive the requirements of this paragraph (h)(2) if the Commissioner determines that the failure to meet the requirements was inadvertent.

(3) *Special rules.* For purposes of this paragraph (h)—

(i) *Issue.* The term "issue" shall include all issues that are treated by the issuer as one issue under § 1.149(e)–1T(d)(2) (ii) or (iii), and any election with respect to one of such issues shall apply equally to all of such issues.

(ii) *Extension of time.* The Commissioner may extend the time to make an election if—

(A) The Commissioner determines that the failure to make the election in a timely manner was due to reasonable cause;

(B) The Commissioner determines that as of the date of issue (and without regard to later facts) it was in the best interests of the issuer to make the election, and the failure to make the election was not deliberate; and

(C) The aggregate issue price of the bonds issued as part of the issue is less than $50 million.

(4) *Cross reference.* The elections to which this paragraph (h) applies are in § 1.148–0T(b)(2)(ii)(C) and § 1.148–3T (b)(1)(ii), (b)(2)(ii)(B), (b)(3)(i), (b)(3)(ii), (c)(4)(i), and (c)(5).

§ 1.148–9T Certain rules applicable for purposes of section 148 generally (temporary).

(a) *Computation of yield on fixed yield issue.* Section 1.148–3T shall apply for purposes of determining the yield on a fixed yield issue for purposes of section 148 (a) and (d)(3). For purposes of computing such yield, the date of issue of the fixed yield issue shall be treated as the only computation date. See § 1.148–3T(c)(7) (Examples (3), (6), (8), and (10)).

(b) *Computation of yield on investments.* The yield on a nonpurpose investment that is not directly purchased with gross proceeds to which the investment is allocated shall be determined on the basis of a purchase price equal to the fair market value of the investment on the date the investment is allocated to the issue for purposes of section 148 (a) and (d)(3). Fair market value has the same meaning as when used in § 1.148–2T(b)(3)(ii).

(c) *Refunding allocation rules.* Section 1.148–4T(e) shall apply for purposes of applying the requirements of section 148.

(d) *Certain imputed escrow receipts.* Any receipt imputed under § 1.148–5T(c) to an investment in an escrow shall be treated as interest on the investment for purposes of section 148(a).

(e) *Certain perpetual trust funds.* Section 1.148–8T(d)(10)(ii) shall apply for purposes of section 148.

(f) *Investment property.* The definition of the term "investment property" in § 1.148–8T(e)(2) shall apply for purposes of section 148.

(g) *Effective date*—(1) *In general.* Except as otherwise provided in this paragraph (g), the provisions of this section apply to any issue sold after May 15, 1989, or issued after June 14, 1989.

(2) *Computation of yield on investments.* Paragraph (b) of this section may be applied in the case of any issue to which § 1.148–1T applies that is not described in paragraph (g)(1) of this section.

(3) *Investment property.* Paragraph (f) of this section shall apply to any bond that is not described in paragraph (g)(1) of this section to the same extent that section 148(b)(2) applies to such bond.

§ 1.149(d)–1T Restrictions on advance refundings (temporary).

(a) *General rule.* Under section 149(d) and this section, nothing in section 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond issued as part of an issue described in paragraph (b), (c), or (d) of this section.

(b) *Certain private activity bonds.* [Reserved]

(c) *Other bonds.* [Reserved]

(d) *Abusive transactions prohibited*—(1) *In general.* [Reserved]

(2) *Failure to pay required rebate.* Any issue to which section 149(d)(4) and § 1.148–1T apply that fails to meet the requirements of § 1.148–1T is described in this paragraph (d). Section 149(d)(4) and this paragraph (d)(2) apply to any bond issued after August 31, 1986 if any bond issued as part of the issue (of which such bond is a part) is issued to advance refund another bond (within the meaning of section 149(d)(5)). See § 1.148–0T(b)(2)(ii) for bonds to which § 1.148–1T applies.

§ 1.150–0T Table of contents (temporary).

This section lists the paragraphs, subparagraphs, and subdivisions contained in § 1.150–1T.

§ 1.150–1T Definitions and special rules relating to tax-exempt bond requirements in general (temporary).

(a) Applicability.
(b) Bonds.
(1) Bond.
(2) Tax-exempt bond (or issue).
(3) State or local bond.
(4) Private activity bond.
(i) In general.
(ii) Qualified bond.
(5) Fixed yield bond.
(6) Variable yield bond.
(7) Tender bond.
(i) In general.
(ii) Tender right.
(iii) Tender rate.
(8) Current index bond.
(i) In general.
(ii) Interest index.
(iii) Current rate.
(c) Sale and issue date.
(1) Sale date.
(2) Date of issue.
(d) Final maturity date.
(1) In general.
(2) Actually and unconditionally due.
(3) Single loan with partial principal repayments.
(e) Internal Revenue Code.

§ 1.150–1T Definitions and special rules relating to tax-exempt bond requirements in general (temporary).

(a) *Applicability.* Except to the extent otherwise provided, the definitions and rules in this section apply for purposes of the regulations under sections 141 through 150.

(b) *Bonds*—(1) *Bond.* The term "bond" includes any obligation. Whenever necessary or appropriate to carry out the purposes of a provision, a single bond shall be treated as separate bonds (or separate bonds shall be treated as a single bond).

(2) *Tax-exempt bond (or issue).* The term "tax-exempt bond (or issue)" means any bond (or issue) the interest on which is excluded from gross income under any provision of law. Any bond (or issue) that (when issued) purported to be a tax-exempt bond (or issue) shall be treated as a tax-exempt bond (or issue).

(3) *State or local bond.* The term "State or local bond" means any bond that is (or would be) a tax-exempt bond (without regard to the last sentence of paragraph (b)(2) of this section) if the appropriate requirements of sections 141–150 are (or were) met.

(4) *Private activity bond*—(i) *In general.* The term "private activity bond" includes any bond that is a private activity bond (as defined in section 141). Such term shall not include any bond described in section 1312(c)(2) of the Tax Reform Act of 1986 to which section 141(a) does not apply by reason of section 1312 or 1313 of such Act.

(ii) *Qualified bond.* The term "qualified bond" means any private activity bond that is a qualified bond (within the meaning of section 141(e)). Each bond described in a subparagraph of section 141(e)(1) has the same meaning as when used in such subparagraph. Any bond to which section 141(a) does not apply by reason of section 1312 or 1313 of the Tax Reform Act of 1986 shall be treated as a bond described in the subparagraph of section 141(e)(1) to which the use of the proceeds of such bond most closely relates.

(5) *Fixed yield bond.* The term "fixed yield bond" means any bond that is not a variable yield bond.

(6) *Variable yield bond.* The term "variable yield bond" means any bond if any interest or other amount payable on the bond (other than in the event of an unanticipated contingency) is determined by reference to (or by reference to an index that reflects) market interest rates or stock or commodity prices after the date of issue.

(7) *Tender bond*—(i) *In general.* The term "tender bond" means any variable yield bond that is subject to a tender right if—

(A) All interest on the bond (other than in the event of a remote contingency) accrues at a tender rate; and

(B) Such interest is actually and unconditionally due at periodic intervals of one year or less.

(ii) *Tender right.* A bond is subject to a tender right if the holder of the bond is entitled (or required) to tender the bond for purchase or redemption at par on one or more tender dates before the final maturity date (plus accrued interest

to the tender date if the tender date is not a regular interest payment date).

(iii) *Tender rate.* Interest on a bond that is subject to a tender right accrues at a tender rate if—

(A) In the case of interest accruing to the first tender date, the interest rate is set on or after the sale date at the lowest rate that would enable the bond to be marketed at par (plus accrued interest, if any) on the date of issue; and

(B) In the case of interest accruing for each period between tender dates (and for the final period to maturity), under the terms of the bond the interest rate is reset for such period at the lowest rate that would enable the bond to be remarketed at par (plus accrued interest, if any) at the beginning of the period.

The interest accruing for each period may be subject to a minimum and/or maximum rate if the minimum and/or maximum rate is not designed to front-load or back-load interest.

(8) *Current index bond*—(i) *In general.* The term "current index bond" means any variable yield bond if—

(A) All interest on the bond (other than in the event of a remote contingency) accrues at the current rate established by a single interest index or at a rate that is fixed and determinable as of the date of issue; and

(B) Such interest is actually and unconditionally due at periodic intervals of one year or less.

The rate may vary from the current rate established by the interest index if the variation is based on a percentage or multiple of the current rate and/or a number of percentage or basis points more or less than the current rate and the variation is the same at all times.

(ii) *Interest index.* The term "interest index" means a series of interest rates that reflect either—

(A) The rate that is currently publicly offered by a financial institution for a particular type of loan to a significant class of unrelated borrowers; or

(B) The average of a statistically significant sample of current yields on a class of publicly traded bonds.

Examples of interest indexes include the prime rate of a designated financial institution, LIBOR, the applicable Federal rate, and the average yield on United States Treasury securities of a particular class.

(iii) *Current rate.* The interest rate in effect on a bond accrues at the current rate if it is based on a rate that is established by the interest index no earlier than six months before and no later than six months after the rate first is in effect.

(c) *Sale and issue date*—(1) *Sale date.* The sale date of a bond is the first day on which there is a binding contract in writing for the sale or exchange of the bond on specific terms that are not later modified or adjusted in any material respect. The sale date is the date on which the bond is sold by the issuer.

(2) *Date of issue.* The date of issue of a bond is the first day on which there is a physical delivery of the written evidence of the bond in exchange for the purchase price. Such day shall not be earlier than the first day on which interest begins to accrue on the bond for federal income tax purposes.

(d) *Final maturity date*—(1) *In general.* The final maturity date of a bond is the latest date on which any principal or interest on the bond is actually and unconditionally due.

(2) *Actually and unconditionally due.* A payment of principal or interest on or the tender price or retirement price of a bond is actually and unconditionally due on the first day on which the failure to make the payment on a timely basis results in significant remedies and consequences to the issuer that are normal in similar lending transactions.

(3) *Single loan with partial principal repayments.* If a single debt instrument requires one or more payments of principal before the latest date that the final payment of principal and interest is actually and unconditionally due, each payment of principal (and related payments of interest) shall be treated as a separate bond. The final maturity date of each separate bond shall be the latest date on which any payment of principal or interest under the debt instrument is actually and unconditionally due.

(e) *Internal Revenue Code.* The term "1954 Code" means the Internal Revenue Code of 1954 as in effect before the enactment of the Tax Reform Act of 1986. Any reference to a section of the Internal Revenue Code (other than the 1954 Code) is to a section of the Internal Revenue Code of 1986.

PART 602—[AMENDED]

Par. 3. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "1.148–0T through 1.148–9T . . . 1545–1098."

* * * * *

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

* * * * *

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: January 31, 1989.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 89–11254 Filed 5–12–89; 8:45am]

BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's interim regulation on Payment of Premiums, which was published on June 30, 1988 (53 FR 24906). Appendix B to the interim regulation contains a table setting forth the interest rates that are required by statute to be used in valuing a plan's vested benefits for purposes of determining the amount of the premium due to the PBGC. This amendment adds to that table the interest rate applicable to plan years beginning in May 1989.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202–778–8823 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, amended section 4006 of the Employee Retirement Income Security Act of 1974 ("ERISA") to establish a two-part premium structure for single-employer plans, *i.e.*, a flat rate per capita assessment and a variable rate assessment based on a plan's unfunded vested benefits, effective for plan years beginning on or after January 1, 1988. Under amended ERISA section 4006(a)(3)(E)(iii)(II), the interest rate used in valuing a plan's vested benefits for purposes of determining the amount of the plan's unfunded vested benefits must equal 80% of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

The Pension Benefit Guaranty Corporation's (the "PBGC's") interim regulation on Payment of Premiums (53 FR 24906 (June 30, 1988)) implements these new premium rules. Under § 2610.23(b)(1) of the regulation, the interest rate for valuing vested benefits is determined by reference to the annual yield for 30-year Treasury constant maturities as reported in Federal Reserve Statistical Release G.13 and H.15. The required interest rate for a given "premium payment year" (the plan year for which the premium is being paid) is 80% of this rate for the calendar month preceding the calendar month in which the premium payment year begins. As a convenience, the PGBC established an Appendix B to the interim regulation containing a table setting forth the required interest rates for premium payment years beginning in January 1988 and thereafter.

The PBGC is amending Appendix B to add the required interest rate for premium payment years beginning in May 1989. Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(d)(3).

The PGBC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Appendix B to Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for Part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by sec. 9331, Pub. L. 100–203, 101 Stat. 1330.

2. Appendix B to Part 2610 is amended by adding to the table of interest rates therein a new entry to read as follows. The explanatory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate [1]
. . . . .	
May 1989	7.22

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15, for the calendar month preceding the calendar month in which the premium payment year begins.

Issued in Washington, DC, on this 10th day of May.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89–11575 Filed 5–12–89; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning June 1, 1989. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after June 1, 1989, and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: June 1, 1989.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202–778–8824 (202–778–8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR Part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The recent amendments to Title IV made by the Pension Protection Act ("PPA"), a part of the Omnibus Budget Reconciliation Act of 1987, increase the amount of plan benefits for which an employer is responsible upon plan termination. These new termination rules apply to plan terminations with respect to which the 60-day advance notice to affected parties (the notice of intent to terminate) is issued after December 17, 1987. (For more detail, see the PBGC's Notice of Revised Termination Rules, 53 FR 1905 (January 22, 1988).) However, the PPA does not change the Title IV valuation rules.

Under amended ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in Part 2619. Plans terminating in a standard termination may, for purposes of the notice given to the PBGC, use these formulas to value benefit liabilities, although this is not required. (Such plans may value benefit liabilities that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Plans that terminate on or after January 1, 1986 (the effective date of the Single-Employer Pension Plan Amendments Act of 1986) and issued notices of intent to terminate prior to December 18, 1987, or against which the PBGC instituted involuntary termination proceedings before that date, shall continue to be responsible for benefit commitments under the plan and to

value guaranteed benefits and/or benefit commitments.

Appendix B in Part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current coinditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since April 1, 1989 (54 FR 10661 (March 15, 1989)). This amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after June 1, 1989, which set reflects a decrease of 1/4 percent in the immediate interest rate to 7 3/4 percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after June 1, 1989, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362, as amended by secs. 9312-13, Pub. L. 100-203, 101 State. 1330.

2. Rate Set 77 of Appendix B is revised and Rate Set 78 of Appendix B is added to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Cy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_2	k_3	n_1	n_2	
*	*	*	*	*	*	*		
77	Apr. 1, 1989	June 1, 1989	8.00	1.0725	1.0600	1.0400	7	8
78	June 1, 1989		7.75	1.0700	1.0575	1.0400	7	8

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89-11574 Filed 5-12-89; 8:45 am]
BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal—Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of June 1989.

EFFECTIVE DATE: June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occuring in the month—	The values of i_k are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
•		•			•		•		•			•			•	
June 1989.....	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this 3rd day of May 1989.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89-11573 Filed 5-12-89; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AB32

Community Residential Care

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its medical regulations (38 CFR Part 17) to incorporate new sections providing for the community residential care program. Section 104(a) of the Veterans' Health Care Amendments of 1983, added 38 U.S.C. 630 to authorize VA to establish standards for VA approval of community residential care facilities, including health and safety criteria and criteria for the establishment of reasonable charges for care; clarify eligibility for the program; and, establish due process standards to govern any situation in which a facility fails to meet the standards and VA wishes to assist veterans in leaving the facility.

EFFECTIVE DATE: June 14, 1989.

The incorporation by reference of a certain publication is approved by the Director of the Federal Register as of June 14, 1989.

FOR FURTHER INFORMATION CONTACT: James R. Kelly, Deputy Director, Patient Treatment Service (181), Office of Geriatrics and Extended Care, Veterans Health Services and Research Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3692.

SUPPLEMENTARY INFORMATION: Comments from 14 organizations or individuals were received concerning the proposed regulatory changes published on pages 9778-9781 of the **Federal Register** on March 25, 1988 (53 FR 9778).

Two commenters stated that the promulgation of these regulations would have a significant economic impact on a substantial number of small entities and would have an annual effect on the economy of $100 million or more. The commenters based their opinions on three standards: § 17.51j(a)(2), the use of the National Fire Protection Association's (NFPA) Life Safety Code; § 17.51j(c)(3), the standard for toilet and bathing facilities; and § 17.51j(e)(2), the standard for square feet in resident's bedrooms. VA does not agree with these comments for the following reasons.

Section 17.51j(a)(2)

Implementation of the Life Safety Code will not present an economic hardship for community residential care facilities. All VA medical centers have been responsible for evaluating community residential care facilities for compliance with the Life Safety Code for many years. Previous editions of the Life Safety Code (1967, 1970, 1973, 1976, 1981) have been used. Beginning in 1985, the Life Safety Code has had a chapter which specifically addresses community residential care facilities. In previous editions, these facilities were evaluated under other residential type occupancies. The Life Safety Code for Board and Care is the consensus standard and specifically designed for community resident care facilities.

This chapter was developed by experts in the field including State fire marshals, facility providers and mental health professionals. The Life Safety Code is also a nationwide standard that assures a uniform level of safety for all individuals, including veterans, referred to community residential care facilities. It has been VA's experience since 1985 that most community residential care facilities used by VA meet the Life Safety Code. Those facilities that do not meet the Life Safety Code have been found to be marginally out of compliance. VA's experience, in providing technical assistance to those facilities which do not meet the code, has been that compliance can be reached and the level of safety upgraded for a minimal cost.

One other commenter also expressed concern about using the Life Safety Code as the standard because the State had not adopted the Code. If a State has a safety code which does not coincide with the NFPA's Life Safety Code, VA can use the Fire Safety Evaluation System (FSES) to determine if the facility provides an equivalent level of safety. Six other commenters stated that VA should use the "most current edition" of the Code rather than citing a specific edition. While it has been long-standing VA practice to use the most current edition of the Life Safety Code, the rules governing publication in the **Federal Register** require that each new edition of the Code be incorporated by reference. This final regulation incorporates the 1988 edition of the Life Safety Code.

Section 17.51j(c)(3) and § 17.51j(e)(3)

In the case of the standards for toilet and bathing facilities and for bedroom size, VA finds that these standards are minimal and are within the range of standards that have been implemented by States. In addition to the two commenters mentioned earlier, two other commenters expressed concern over the toilet/bathing standard and four other commenters expressed concern over the bedroom size standard. The VA program which most closely resembles the Community Residential

Care Program is the Domiciliary Care Program. The bedroom standard for a domiciliary is 206 square feet for a two-bed room. The VA standard for community residential care facilities is 160 square feet for a two-bed room. While VA considers these standards to be minimal, it recognizes that some facilities which may meet all other standards and provide quality care may be unreasonably penalized by these standards.

Therefore, VA has introduced a new regulation, § 17.51k, Exceptions to standards in community residential care facilities. This regulation allows the VA approving official to continue to approve a previously approved facility if the facility meets all other standards and also meets a slightly lower standard for § 17.51j(c)(3) and § 17.51j(e)(2). In addition, community residential care facilities which do not meet this revised standard for approved facilities may apply in writing to the Secretary of Veterans Affairs for an exception, § 17.51k(b). VA finds that this change should resolve the concerns expressed by the commenters in these areas. The changes clearly lessen any economic impact on currently approved community residential care facilities.

With these changes, VA finds that the regulation will not have a significant economic impact on a substantial number of small entities and will not have an annual effect on the economy of $100 million or more.

One commenter suggested that § 17.51h, Eligibility, be expanded to include a special outpatient eligibility status because of a veteran's referral to a community residential care facility. VA finds that this suggestion is not envisioned by Section 104(a) of Pub. L. 98–160, Veterans' Health Care Amendment of 1983, and that eligibility for outpatient care is governed by 38 U.S.C. 612.

Two commenters suggested changes to § 17.51j(a)(1), Health and safety standards. One commenter suggested that compliance with State and local regulations should be tied to State licensure of a community residential care facility. VA agree with this comment and has modified this section accordingly. Another commenter suggested that in addition to State and local regulations that VA require community residential care facilities to meet Federal Environmental Protection Agency regulations. VA finds that State regulations are sufficient in these areas for the purpose of these regulations.

One commenter stated that § 17.51j(b), Health services, would require the facility operator to provide services, e.g., administration of medications, which might be prohibited by State law. Section 17.51j(b) has been modified to respond to this concern.

Nine commenters stated concerns about § 17.51j(h), Residents rights, specifically, § 17.51j(h)(2), Financial affairs, and § 17.51j(h)(5), Freedom of association. VA has adopted changes to § 17.51j(h)(2) to restrict the right of a resident who has been rated incompetent to manage personal financial matters.

VA has not made any changes to § 17.51j(h)(5) as the Department does not find that it can arbitrarily abridge the right of a resident to freely associate. At the same time, VA recognizes that some residents might choose to associate with individuals who could cause disruption at the facility or that some residents might display behaviors which could be harmful to themselves or others. VA finds that § 17.51j(h) does not in any way conflict with the establishment and enforcement of facility rules regarding these issues.

Two commenters remarked on §17.51j(i), Records. One commenter suggested that the recordkeeping requirement was burdensome for small facilities, while another commenter suggested that the standard require more comprehensive records. VA finds that the recordkeeping standard is minimal, and requires that only essential documents be kept.

Two commenters stated that the wording of § 17.51j(j), Staff requirements, was vague. VA finds merit in this concern; however, as credentialing standards have not been established by the industry, VA is unable to be more specific in this requirement.

Two commenters expressed the concern that § 17.51j(k), Cost of community residential care, established too low a base price, with the base established at July 1987 prices with annual increases not to exceed the national Consumer Price Index. Specifically, the commenters were concerned about cost increases associated with any necessary facility renovations to meet VA standards. VA finds that §17.51j(k)(3)(iii) allows for deviations from the price increases and adequately addresses the concerns of these commentators.

Two commenters stated that § 17.511, Duration of approval, was too complex and suggested a simpler standard. The Administration is committed to testing this new approach to inspections. The Administration believes that the incentive of less frequent inspections may encourage greater compliance with standards on the part of community residential care facilities.

One commenter stated that § 17.51m, Notice of noncompliance with VA standards, was too burdensome and dangerous in allowing the facility a 36 hour response time to the notice of noncompliance in a life-threatening situation, § 17.51m(4). VA recognizes the need to balance the health and safety of referred veterans in community residential care facilities and the right of due process for the facility. VA finds that State and local agencies have authority to intervene in emergency situations that can assist the residents in a facility.

The information collection in § 17.51j(i) has been cleared by the Office of Management and Budget, control number 2900–0491. It has public reporting burden estimated to average seven minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the VA Clearing Officer (732), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington DC, 20420, and to the Office of Management and Budget, Paperwork Reduction Project (2900–0491), Washington, DC 20503.

The Secretary of Veterans Affairs certifies that the final regulations will not have significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 612. The final regulations reflect standards which have, for the most part, been informally utilized for many years and do not create new expectations for the facility operators which would have a significant economic impact.

The Secretary has determined that these final regulations are considered non-major under the criteria of Executive Order 12291, Federal Regulation. The regulations will not have an annual effect on the economy of $100 million or more; they will not result in major increases in costs for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; nor will they have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

We appreciate the comments and suggestions of those who responded to publication of the proposed regulations. The proposed rules are, hereby, adopted with the amendments noted above and minor amendments of a technical nature. The final rules are set forth below.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs-health, Health care, Health facilities, Health professions, Incorporation by reference, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: April 4, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended as follows:

A new undesignated center heading and §§ 17.51h, 17.51i, 17.51j, 17.51k, 17.51l, 17.51m, 17.51n, 17.51o, 17.51p, 17.51q, 17.51r, and 17.51s are added to read as follows:

Community Residential Care

Sec.

17.51h Eligibility.
17.51i Definitions.
17.51j Approval of community residental care facilities.
17.51k Exceptions to standards in community residential care facilities.
17.51l Duration of approval.
17.51m Notice of noncompliance with VA standards.
17.51n Request for a hearing.
17.51o Notice and conduct of hearing.
17.51p Waiver of opportunity for hearing.
17.51q Written decision following a hearing.
17.51r Revocation of VA approval.
17.51s Availability of information.

Community Residential Care

§ 17.51h Eligibility.

VA health care personnel may assist a veteran by referring such veteran for placement in a privately or publicly-owned community residential care facility if:

(a) At the time of initiating the assistance:

(1) The veteran is receiving VA medical services on an outpatient basis or VA medical center, domiciliary, or nursing home care; or

(2) Such care or services were furnished the veteran within the preceding 12 months;

(b) The veteran does not need hospital or nursing home care but is unable to live independently because of medical (including psychiatric) conditions and has no suitable family resources to provide needed monitoring, supervision, and any necessary assistance in the veteran's daily living activities; and

(c) The facility has been approved in accordance with § 17.51j of this part.

(Authority: 38 U.S.C. 630)

§ 17.51i Definitions.

For the purpose of §§ 17.51h through 17.51s:

(a) The term "community residential care" means the monitoring, supervision, and assistance, in accordance with a statement of needed care, of the daily living activities of referred veterans in an approved home in the community by the facility's provider.

(b) The term "statement of needed care" means a written description of needed assistance in daily living activities devised by VA for each referred veteran in the community residential care program.

(c) The term "daily living activities" includes:

(1) Walking;

(2) Bathing, shaving, brushing teeth, combing hair;

(3) Dressing;

(4) Eating;

(5) Getting in or getting out of bed;

(6) Laundry;

(7) Cleaning room;

(8) Managing money;

(9) Shopping;

(10) Using public transportation;

(11) Writing letters;

(12) Making telephone calls;

(13) Obtaining appointments;

(14) Self-administration of medications;

(15) Recreational and leisure activities; and

(16) Other similar activities.

(d) The term "paper hearing" means a review of the written evidence of record by the hearing official.

(e) The term "oral hearing" means the in person testimony of representatives of a community residential care facility and of VA before the hearing official and the review of the written evidence of record by that official.

(f) The term "approving official" means the Director or, if designated by the Director, the Associate Director or Chief of Staff of a Department of Veterans Affairs Medical Center or Outpatient Clinic which has jurisdiction to approve a community residential care facility.

(g) The term "hearing official" means the Director or, if designated by the Director, the Associate Director or Chief of Staff of a Department of Veterans Affairs Medical Center or Outpatient Clinic which has jurisdiction to approve a community residential care facility.

(Authority: 38 U.S.C. 630)

§ 17.51j Approval of community residential care facilities.

The approving official may approve a community residential care facility, based on the report of a VA inspection and on any findings of necessary interim monitoring of the facility, if that facility meets the following standards:

(a) *Health and safety standards.* The facility must:

(1) Meet all State and local regulations including construction, maintenance, and sanitation regulations;

(2) Meet the applicable provisions of the 1988 edition of the National Fire Protection Association's Life Safety Code, NFPA 101, including NFPA 101M, Alternative Approaches to Life Safety (which are incorporated by reference). The institution shall provide sufficient staff to assist patients in the event of fire or other emergency. Incorporation by reference of the 1988 edition of the Life Safety Code including NFPA 101M was approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The Code is available for inspection at the Office of the Federal Register, Room 8301, 1100 L Street NW., Washington, DC. Copies may be obtained from the National Fire Protection Association, Battery March Park, Quincy, MA 02269. If any changes in this Code are also to be incorporated by reference, a notice to that effect will be published in the **Federal Register**; and

(3) Have safe and functioning systems for heating, hot and cold water, electricity, plumbing, sewage, cooking, laundry, artificial and natural light, and ventilation.

(c) *Interior plan.* The facility must:

(1) Have comfortable dining areas, adequate in size for the number of residents;

(2) Have confortable living room areas, adequate in size to accommodate a reasonable proportion of residents; and

(3) Maintain at least one functional toilet and lavatory, and bathing or shower facility for every six people living in the facility, including provider and staff.

(d) *Laundry service.* The facility must provide or arrange for laundry service.

(e) *Residents' bedrooms.* Residents' bedrooms must:

(1) Contain no more than four beds;

(2) Measure, exclusive of closet space, at least 100 square feet for a single-resident room, or 80 square feet for each resident in a multiresident room; and

(3) Contain a suitable bed for each resident and appropriate furniture and furnishings.

(f) *Nutrition.* The facility must:

(1) Provide a safe and sanitary food service that meets individual nutritional requirements and residents' preferences;

(2) Plan menus to meet currently recommended dietary allowances;

(g) *Activities.* The facility must plan and facilitate appropriate recreational and leisure activities to meet individual needs specified in the statement of needed care.

(h) *Residents' rights.* The facility must have written policies and procedures that ensure the following rights for each resident:

(1) Each resident has the right to:

(i) Be informed of the rights described in this section;

(ii) The confidentiality and nondisclosure of information obtained by community residential care facility staff on the residents and the residents' records subject to the requirements of applicable law;

(iii) Be able to inspect the residents' own records kept by the community residential care facility;

(iv) Exercise rights as a citizen; and

(v) Voice grievances and make recommendations concerning the policies and procedures of the facility.

(2) *Financial affairs.* Residents must be allowed to manage their own personal financial affairs, except when the resident has been restricted in this right by law. If a resident requests assistance from the facility in managing personal financial affairs the request must be documented.

(3) *Privacy.* Residents must:

(i) Be treated with respect, consideration, and dignity;

(ii) Have access, in reasonable privacy, to a telephone within the facility;

(iii) Be able to send and receive mail unopened and uncensored; and

(iv) Have privacy of self and possessions.

(4) *Work.* No resident will perform household duties, other than personal housekeeping tasks, unless the resident receives compensation for these duties or is told in advance they are voluntary and the patient agrees to do them.

(5) *Freedom of association.* Residents have the right to:

(i) Receive visitors and associate freely with persons and groups of their own choosing both within and outside the facility;

(ii) Make contacts in the community and achieve the highest level of independence, autonomy, and interaction in the community of which the resident is capable;

(iii) Leave and return freely to the facility, and

(iv) Practice the religion of their own choosing or choose to abstain from religious practice.

(6) *Transfer.* Residents have the right to transfer to another facility or to an independent living situation.

(i) *Records.* (1) The facility must maintain records on each resident in a secure place.

(2) Facility records must include:

(i) A copy of the statement of needed care;

(ii) Emergency notification procedures; and

(iii) A copy of all signed agreements with the resident.

(3) Records may only be disclosed with the resident's permission, or when required by law.

(Approved by the Office of Management and Budget under control number 2900-0491)

(j) *Staff requirements.* (1) Sufficient, qualified staff must be on duty and available to care for the resident and ensure the health and safety of each resident.

(2) The community residential care provider and staff must have the following qualifications: Adequate education, training, or experience to maintain the facility.

(k) *Cost of community residential care.* (1) Payment for the charges of community residential care is not the responsibility of the United States Government or VA.

(2) The resident or an authorized personal representative and a representative of the community residential care facility must agree upon the charge and payment procedures for community residential care.

(3) The charges for community residential care must be reasonable:

(i) For residents in a community residential care facility as of June 14, 1989, the rates charged for care are pegged to the facility's basic rate for care as of July 31, 1987. Increases in the pegged rate during any calendar year cannot exceed the annual percentage increase in the National Consumer Price Index (CPI) for that year;

(ii) For community residential care facilities approved after July 31, 1987, the rates for care shall not exceed 110 percent of the average rate for approved facilities in that State as of March 31, 1987. Increases in this rate during any calendar year cannot exceed the annual percentage increase in the National Consumer Price Index (CPI) for that year.

(iii) The approving official may approve a deviation from the requirements of paragraphs (k)(3) (i) through (ii) of this section upon request from a community residential care facility representative, a resident in the facility, or an applicant for residency, if the approving official determines that the cost of care for the resident will be greater than the average cost of care for other residents, or if the resident chooses to pay more for the care provided at a facility which exceeds VA standards.

(Authority: 38 U.S.C. 630)

§ 17.51k Exceptions to standards in community residential care facilities.

(a) Facilities which have participated in VA's community residential care program prior to (the effective date of these regulations) may continue to be approved when the standard for § 17.51j(c)(3) and/or § 17.51j(e)(2) of this part are not met if:

(1) All standards other than § 17.51j(c)(3) and/or § 17.51j(e)(2) of this part are met;

(2) There is at least one functional toilet, lavatory, and bathing or shower facility for every eight people living in the facility, including provider and staff;

(3) The resident's bedrooms measure, exclusive of closet space, at least 80 square feet for a single-resident room, or 65 square feet for each resident in a multiresident room.

(b) Community residential care facilities which do not meet the requirements for continued approval because they do not comply with paragraphs (a)(2) or (a)(3) of this section may apply in writing to the Secretary of Veterans Affairs for an exception. The application must include a detailed description of the facility, including a description of the toilet, lavatory and bathing and shower facilities and/or resident's bedroom size, and an analysis of alternative solutions.

(Authority: 38 U.S.C. 630)

§ 17.51l Duration of approval.

(a) Approval may be valid for up to 24 months if VA finds that the facility complies with all standards during the current and all previous VA inspections and any necessary interim monitoring for a period of two years.

(b) Approval may be valid for up to 15 months if VA finds the facility has complied with all standards except the records standard set forth in § 17.51j(i) of this part during the current and all previous VA inspections and any necessary interim monitoring.

(c) Approval may be valid for up to 12 months if the VA finds that the facility has complied with all standards except the laundry service standard set forth in § 17.51j(d) and the records standard set forth in § 17.51j(i) of this part during the current and all previous VA inspections and any necessary interim monitoring.

(d) Approval may be valid for up to 9 months if the VA finds that the facility has complied with all standards except the laundry service standard set forth in § 17.51j(d) of this part; the bedroom standard set forth in § 17.51j(e) of this part; the activities standard set forth in § 17.51j(g) of this part; and the records standard set forth in § 17.51j(i) of this part during the current and all previous VA inspections and any necessary interim monitoring.

(Authority: 38 U.S.C. 630)

§ 17.51m Notice of noncompliance with VA standards.

If the hearing official determines that an approved community residential care facility does not comply with the standards set forth in § 17.51j of this part, the hearing official shall notify the community residential care facility in writing of:

(a) The standards which have not been met;

(b) The date by which the standards must be met in order to avoid revocation of VA approval;

(c) The community residential care facility's opportunity to request an oral or paper hearing under § 17.51n of this part before VA approval is revoked; and

(d) The date by which the hearing official must receive the community residential care facility's request for a hearing, which shall not be less than 10 calendar days and not more than 20 calendar days after the date of VA notice of noncompliance, unless the hearing official determines that noncompliance with the standards threatens the lives of community residential care residents in which case the hearing official must receive the community residential care facility's request for an oral or paper hearing within 36 hours of receipt of VA notice.

(Authority: 38 U.S.C. 630)

§ 17.51n Request for a hearing.

The community residential care facility operator must specify in writing whether an oral or paper hearing is requested. The request for the hearing must be sent to the hearing official. Timely receipt of a request for a hearing will stay the revocation of VA approval until the hearing official issues a written decision on the community residential care facility's compliance with VA standards. The hearing official may accept a request for a hearing received after the time limit, if the community residential care facility shows that the failure of the request to be received by the hearing official's office by the required date was due to circumstances beyond its control.

(Authority: 38 U.S.C. 630)

§ 17.51o Notice and conduct of hearing.

(a) Upon receipt of a request for an oral hearing, the hearing official shall:

(1) Notify the community residential care facility operator of the date, time, and location for the hearing; and

(2) Notify the community residential care facility operator that written statements and other evidence for the record may be submitted to the hearing official before the date of the hearing. An oral hearing shall be informal. The rules of evidence shall not be followed. Witnesses shall testify under oath or affirmation. A recording or transcript of every oral hearing shall be made. The hearing official may exclude irrelevant, immaterial, or unduly repetitious testimony.

(b) Upon the receipt of a community residential care facility's request for a paper hearing, the hearing official shall notify the community residential care facility operator that written statements and other evidence must be submitted to the hearing official by a specified date in order to be considered as part of the record.

(c) In all hearings, the community residential care facility operator and VA may be represented by counsel.

(Authority: 38 U.S.C. 630)

§ 17.51p Waiver of opportunity for hearing.

If representatives of a community residential care facility which receive a notice of noncompliance under § 17.51m of this part fail to appear at an oral hearing of which they have been notified or fail to submit written statements for a paper hearing in accordance with § 17.51o of this part, unless the hearing official determines that their failure was due to circumstances beyond their control, the hearing official shall:

(a) Consider the representatives of the community residential care facility to have waived their opportunity for a hearing; and,

(b) Revoke VA approval of the community residential care facility and notify the community residential care facility of this revocation.

(Authority: 38 U.S.C. 630)

§ 17.51q Written decision following a hearing.

(a) The hearing official shall issue a written decision within 20 days of the completion of the hearing. An oral hearing shall be considered completed when the hearing ceases to receive in person testimony. A paper hearing shall be considered complete on the date by which written statements must be submitted to the hearing official in order to be considered as part of the record.

(b) The hearing official's determination of a community residential care facility's noncompliance with VA standards shall be based on the preponderance of the evidence.

(c) The written decision shall include:

(1) A statement of the facts;

(2) A determination whether the community residential care facility complies with the standards set forth in § 17.51j of this part; and

(3) A determination of the time period, if any, the community residential care facility shall have to remedy any noncompliance with VA standards before revocation of VA approval occurs.

(d) The hearing official's determination of any time period under paragraph (c)(3) of this section shall consider the safety and health of the residents of the community residential care facility and the length of time since the community residential care facility received notice of the noncompliance.

(Authority: 38 U.S.C. 630)

§ 17.51r Revocation of VA approval.

(a) If a hearing official determines under § 17.51q of this part that a community residential care facility does not comply with the standards set forth in § 17.51j of this part and determines that the community residential care facility shall not have further time to remedy the noncompliance, the hearing official shall revoke approval of the community residential care facility and notify the community residential care facility of this revocation.

(b) Upon revocation of VA approval, VA health care personnel shall:

(1) Cease referring veterans to the community residential care facility; and,

(2) Notify any veteran residing in the community residential care facility of the facility's disapproval and request permission to assist in the veteran's removal from the facility. If a veteran has a person or entity authorized by law to give permission on behalf of the veteran, VA health care personnel shall notify that person or entity of the community residential care facility's disapproval and request permission to

assist in removing the veteran from the community residential care facility.

(c) If the hearing official determines that a community residential care facility fails to comply with the standards set forth in § 17.51j of this part and determines that the community residential care facility shall have an additional time period to remedy the noncompliance, the hearing official shall review at the end of the time period the evidence of the community residential care facility's compliance with the standards which were to have been met by the end of that time period and determine if the community residential care facility complies with the standards. If the community residential care facility fails to comply with these or any other standards, the procedures set forth in §§ 17.51m–17.51r of this part shall be followed.

(Authority: 38 U.S.C. 630)

§ 17.51s Availability of information.

VA standards will be made available to other Federal, State and local agencies charged with the responsibility of licensing, or otherwise regulating or inspecting community residential care facilities.

(Authority: 38 U.S.C. 630)

[FR Doc. 89–11492 Filed 5–12–89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3551–3]

Approval and Promulgation of State Implementation Plans; South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the Committal State Implementation Plan (SIP) for the Rapid City, South Dakota, Group II PM_{10} area submitted by the State on July 12, 1988. The SIP commits the State to continue monitoring for PM_{10} and to submit a full SIP if a violation of the PM_{10} National Ambient Air Quality Standards (NAAQS) is detected. It also commits the State to make several revisions, related to PM_{10}, to the existing SIP.

DATES: This action will be effective on July 14, 1989, unless notice is received by June 14, 1989, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m., and 4:00 p.m., Monday through Friday at the following office:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202–2405.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Houk, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202–2405, (303) 294–7613, (FTS) 564–7613.

SUPPLEMENTARY INFORMATION: The 1977 amendments to the Clean Air Act require EPA to review periodically and, if appropriate, revise the criteria on which the NAAQS for each air pollutant are based, as well as review and revise the NAAQS themselves. In response to these requirements, EPA published a notice to promulgate revised NAAQS for particulate matter under ten microns in size (known as PM_{10}) on July 1, 1987 (52 FR 24634). As a result, States must revise their State Implementation Plans (SIPs) to attain and maintain the new NAAQS.

To implement the new SIP requirements, all areas in the country were divided into three groups, based on the probability that each of these areas would violate the PM_{10} NAAQS. Group I areas have violated the PM_{10} NAAQS or have air quality data showing high (greater than 95%) probabilities of violating the NAAQS. These areas must submit full SIPs including control strategies and attainment demonstrations. Group II areas are estimated to have a moderate (20%–95%) probability of violating the PM_{10} NAAQS, and must commit to monitor for PM_{10} and submit a full SIP if a violation occurs. Group III areas are estimated to have a low (less than 20%) probability of violating the PM_{10} NAAQS, and no new control strategy requirements apply.

The Rapid City, South Dakota area has been classified as a Group II area. On July 12, 1988, the State submitted a Committal SIP for this area. The requirements for Group II Committal SIPs, and the State's response to these requirements are described below.

EPA Requirements for Group II Committal SIPs

The following SIP requirements apply to all PM_{10} areas, regardless of their grouping:

(1) All SIPs should provide for the attainment and maintenance of the PM_{10} standards, and PM_{10} should be regulated as a criteria pollutant.

(2) Since the SIP must protect both the PM_{10} standard and the total suspended particulates (TSP) increment for prevention of significant deterioration (PSD), it must trigger preconstruction review for a new or modified source which would emit significant (as defined at 40 CFR 51.166(b)(23)) amounts of either TSP or PM_{10}.

(3) The significant harm level for particulate matter was revised in 40 CFR 51.151 to 600 ug/M^3 measured as PM_{10}, and the combined sulfur dioxide-particulate matter significant harm level was deleted. In addition, the example alert, warning, and emergency levels of particulate matter in Appendix L of Part 51 were also revised to reflect PM_{10} concentrations. Therefore, State emergency episode plans must be revised to reflect these changes.

(4) Revisions to 40 CFR 58 set forth the requirements for design of national, State and local PM_{10} air monitoring networks. The revised monitoring networks must be submitted for EPA approval. The required monitoring frequency varies with area grouping: Group I areas are required to monitor daily for at least one site in the area of expected maximum concentration, Group II areas are required to monitor every other day at such a site, and Group III areas are required to monitor every sixth day at such a site. Monitoring frequency in Group I and Group II areas can be reduced if the reduction is supported by at least one year of data.

In addition, Committal SIPs for Group II areas must contain enforceable commitments to:

(5) Gather ambient PM_{10} data, at least to an extent consistent with minimum EPA requirements and guidance.

(6) Analyze and verify the ambient PM_{10} data and report 24-hour PM_{10} NAAQS exceedances to the appropriate Regional Office within 45 days of each exceedance.

(7) When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available or when an annual arithmetic mean above the level of the annual PM_{10} NAAQS becomes available, acknowledge that a nonattainment problem exists and immediately notify the appropriate Regional Office.

(8) Within 30 days of the notification referred to in (7), above, or within 37 months of promulgation of the PM_{10} NAAQS, whichever come first, determine whether the measures in the existing SIP will assure timely attainment and maintenance of the primary PM_{10} standards, and immediately notify the appropriate Regional Office.

(9) Within 6 months of the notification referred to in (8), above, adopt and

submit to EPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than 3 years from approval of the Committal SIP.

(10) Committal SIPs must include an enforceable schedule with appropriate milestones or checkpoints.

South Dakota Submittal

The State submittal addresses EPA's requirements as follows:

(1) *PM_{10} air quality standards.* The State has adopted ambient air quality standards for PM_{10} at Administrative Rules of South Dakota (ARSD) 74:26:02:35. EPA approved this provision at 53 FR 34077, September 2, 1988.

(2) *Preconstruction review of major stationary sources of PM_{10}.* The State administers a new source review (NSR) program for non-PSD stationary sources and modifications. The State has not received delegation of the PSD program, and reviews of PSD sources are carried out by EPA. By adopting ambient air quality standards for PM_{10}, the State has triggered a requirement (under the State regulations) for preconstruction review of all non-PSD sources of PM_{10}.

The Rapid City area was designated nonattainment for TSP on March 3, 1978 (43 FR 8962). This designation required the State to implement a nonattainment area NSR program under Part D of the Clean Air Act. The State developed nonattainment area NSR regulations, which we approved by EPA on November 3, 1981 (46 FR 54541). These rules were based on the EPA requirements which were in effect prior to August 1980, and contained several minor deficiencies. EPA approved the State NSR rules with the understanding that the State would revise its rules to conform to new EPA requirements promulgated on August 7, 1980 (45 FR 52676) and would correct the other existing deficiencies.

The State submitted revised rules on December 21, 1981; however, these rules also contained deficiencies. As a result, EPA proposed to disapprove the State NSR program on February 25, 1986 (51 FR 6564). No final action was taken by EPA, due to uncertainty over how promulgation of the PM_{10} NAAQS and repeal of the TSP NAAQS would affect the need for an NSR program in the existing TSP nonattainment area.

To protect the Rapid City area (and the rest of South Dakota) from violations of the PM_{10} NAAQS, the State must revise its NSR regulations to address 40 CFR 51.165(b) (NSR for attainment and unclassifiable areas). 40 CFR 51.165(b) prohibits the permitting of a source which would exceed certain ambient impact levels, and which would cause or contribute to a violation of the NAAQS, unless the source obtains offsets. In its Committal SIP, the State has committed to revise its NSR regulations by August 31, 1990.

Region VIII has provided extensive comments to the State on the existing NSR regulations. These comments were primarily focused toward assisting the State in revising its regulations to address 40 CFR 51.165(b) although EPA also identified several areas in the nonattainment area definitions (listed in 40 CFR 51.165(a) of the Federal NSR rules) where revisions were necessary.

EPA believes that the existing State NSR regulations contain language similar in intent to 40 CFR 51.165(b), and are acceptable in the interim until the State revises its regulations to address 40 CFR 51.165(b). For example, ARSD 74:26:01:12 allows the issuance of a construction permit "only when it has been shown that the operation of the new source will not prevent or interfere with the attainment or maintenance of an applicable ambient air quality standard." In addition, the State has retained ambient TSP standards, and the NSR program for TSP (which includes offset requirements) will remain in effect until a PM_{10} attainment demonstration is approved and the Rapid City area is redesignated from nonattainment to unclassifiable for TSP. The existing TSP NSR program will provide an additional degree of protection for the PM_{10} NAAQS by requiring permits for nearly all stationary sources of particulate matter in the Rapid City area.

(3) *Revised emergency episode plans.* In its Committal SIP, the State has committed to revise its emergency episode plans by December 1988, to reflect the changes in the federal regulations due to PM_{10}.

(4) *PM_{10} monitoring networks.* There are three PM_{10} monitoring sites operating in Rapid City. One of the sites is operated on an every-other-day schedule; the remaining sites monitor every sixth day. The monitoring network design and coverage have been reviewed, and were approved by the Region VIII Environmental Services Division on February 27, 1989.

(5) *Collection of ambient PM_{10} data.* The State began monitoring for PM_{10} in January 1985, and has committed to continue monitoring in the Committal SIP.

(6) *Reporting exceedances to EPA within 45 days.* This commitment is contained in the Committal SIP.

(7) *Immediate notification of EPA if the area moves into nonattainment.* This commitment is contained in the Committal SIP.

(8) *Determination of adequacy of the existing SIP.* This commitment is contained in the Committal SIP.

(9) *Submittal of a revised control strategy for PM_{10} if the area moves into nonattainment.* This commitment is contained in the Committal SIP.

The Committal SIP also contains commitments to submit actual emissions of major sources of PM_{10} and TSP, and to notify EPA if a TSP monitor being used as a surrogate PM_{10} monitor records an exceedance of the PM_{10} NAAQS.

EPA requirements for administrative procedures, adequate legal authority to implement the SIP, and intergovernmental consultation have been satisfied by the State. These procedures have been approved as part of the SIP in previous **Federal Register** notices (44 FR 44494, July 30, 1979; 46 FR 54541, July 7, 1983; 53 FR 34077, September 2, 1988).

The State held a public hearing on the Committal SIP on June 14, 1988. A draft Committal SIP was submitted to EPA for review prior to this hearing. EPA reviewed the draft SIP and found it to meet the necessary requirements with some minor exceptions, which were corrected in the final submittal. EPA's comments on the draft SIP were the only comments received by the State.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of the **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective (60 days from publication).

Final Action

EPA hereby approves the Committal SIP for the Rapid City area as part of the South Dakota SIP. The Committal SIP provides for adequate ambient air quality monitoring, and should provide for protection of the Rapid City area from violations of the PM_{10} NAAQS.

EPA finds that good cause exists for making the action taken in this notice immediately effective because the implementation plan revisions are

already in effect under State law or regulation. EPA's approval poses no additional regulatory burden.

Under 5 U.S.C. Section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from publication). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Sulfur oxides.

Date: March 27, 1989.

James J. Scherer,

Regional Administrator.

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

PART 52—[AMENDED]

Subpart QQ—South Dakota

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

Authority: 42 U.S.C. 7401–7642.

2. Add a new § 52.2181:

§ 52.2181 PM_{10} committal SIP.

On July 12, 1988, the State submitted a Committal SIP for the Rapid City Group II PM_{10} area, as required by the PM_{10} implementation policy (52 FR 24681). The SIP commits the State to continue to monitor for PM_{10} and to submit a full SIP if a violation of the PM_{10} National Ambient Air Quality Standards is detected. It also commits the State to make several revisions related to PM_{10} to the existing SIP.

[FR Doc. 89–11582 Filed 5–12–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–3570–9]

Colorado; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Colorado has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the Colorado application and has made a decision, subject to public review and comment, that the Colorado hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve the Colorado hazardous waste program revisions. The Colorado application for program revision is available for public review and comment.

DATES: Final authorization for Colorado shall be effective July 14, 1989 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on the Colorado program revision application must be received by the close of business June 14, 1989.

ADDRESSES: Copies of the Colorado program revision application are available from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following addresses for inspection and copying: Hazardous Materials and Waste Management Division, Colorado Department of Health, 4210 East 11th Avenue, Denver, Colorado 80220, Phone: 303/331–4830; U.S. EPA Headquarters Library, PM211A, 401 M Street SW., Washington, DC 20460, Phone: 202/382–5926; U.S. EPA Region VIII, Library, 999 18th Street, Denver, CO 80202–2405, Phone: 303/293–1444. Written comments should be sent to Diana Shannon at the address below.

FOR FURTHER INFORMATION CONTACT: Diana Shannon, Chief, RCRA Management Branch, 999 18th Street, Denver, CO 80202–2405, Phone: 303/294–7540.

SUPPLEMENTARY INFORMATION:

A. Background

The States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allow States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260–266 and 124 and 270.

B. Colorado

Colorado initially received final authorization on November 2, 1984. Colorado received authorization for revisions to its program on November 7, 1986. On September 30, 1988, Colorado submitted a program revision application for additional program approvals. Today, Colorado is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3). Specific provisions which are included in the Colorado program authorization revision made today are listed in Table 1 below.

EPA has reviewed the Colorado application, and has made an immediate final decision that the Colorado hazardous waste program revision satisfies all requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional modifications to the Colorado hazardous waste program. The public may submit written comments on EPA's immediate final decision up until June 14, 1989. Copies of the Colorado application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of the Colorado hazardous waste program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

The State of Colorado submitted an initial draft application for the revision of its authorized hazardous waste program on October 1, 1987. A second draft application for additional revision was received on January 15, 1988. The second draft application contained all information and revision requests that were a part of the October 1, 1987, application. The EPA comments, and the

response by the State to the EPA comments, address both draft applications.

EPA review of the draft application raised several areas of concern. Further explanation and detail were requested on the intended program for administration of the expansion of Colorado's hazardous waste program and on the organization and utilization of the State's staff.

On September 30, 1988, Colorado submitted a final application which further explained how Colorado will expand the program to provide for the increased responsibilities. Several additional concerns on the details of the final application were discussed between EPA and Colorado. A Letter of Intent which further clarifies the final application was agreed upon and made a part of the application.

Colorado's application for authority to revise the Colorado hazardous waste program has been found to be consistent and equivalent to the Federal hazardous waste program. No significant aspect of this application provides for the Colorado program to be broader in scope than is the Federal program.

Facilities possessing permits issued under the Federal program for treatment, storage, or disposal are deemed by the Colorado Department of Health to have a permit under Colorado Revised Statute 25-15-303(3). EPA issued under that part of the RCRA program for which Colorado is being authorized today, become State permits upon Authorization. When the State either incorporates the terms of the Federal permit in State RCRA permits or issues State RCRA permits to those facilities, EPA will terminate those permits pursuant to 40 CFR Part 270 and rely on the State to enforce those terms and conditions subject to the terms of an acceptable State/EPA Enforcement Agreement.

Colorado has not requested hazardous waste program authority on Indian lands. The Environmental Protection Agency retains all hazardous waste authority under RCRA which applies to Indian lands in Colorado.

TABLE 1—PROVISIONS COVERED BY THIS PROGRAM AUTHORIZATION REVISION

HSWA or FR Reference	State Equivalent*
1. Immediate Response to Spills and Discharges, 48 *FR* 2508, 1/19/83.	264.1, 265.1
2. Biennial Reports, 48 *FR* 3977, 1/28/83.	262.40, 262.41, 264.75-77, 264.94, 265.76, 265.77
3. Chlorinated Aliphatic Hydrocarbon Listing, 49 *FR* 5313, 2/10/84.	261.31
4. Warfarin and Zinc, Phosphide Listing, 49 *FR* 19922, 5/10/84.	261.33
5. Lime Stabilized Pickle Liquor Sludge, 49 *FR* 23284, 6/5/84.	261.3
6. State Availability of Information, HSWA Section 3006(f), 11/8/84.	2.100, 2.104, 2.109, 2.112, 2.113, Section 24-72-201 CRS, Section 24-72-204(5) CRS
7. Exclusion of Household Waste 49 *FR* 44980, 11/13/84.	261.4
8. Interim Status Standards—Application 49 *FR* 46095, 11/21/84.	265.1
9. Corrections to Test Methods Manual, 49 *FR* 47391, 12/4/84.	100.47, 260.11, 260.21
10. Satellite Accumulation, 49 *FR* 49571, 12/20/84.	262.34
11. Redefinition of Solid Waste, 50 *FR* 614, 1/4/85.	260.10, 260.30, 260.31, 260.33, 260.40, 260.41, 261.1-261.6, 261.30, 261.33, 264.1, 264.340, 265.1, 265.340, 265.370, 267.20-267.23, 267.30, 267.32-35, 267.70, 267.80
12. Interim Status Standards, for Landfills, 50 *FR* 16044, 4/23/85.	265.22, 265.229, 265.272, 265.310, 265.315
13. Paint Filter Test, 50 *FR* 18370, 4/30/85.	264.13, 264.73, 264.314, 265.13, 265.73, 265.314
14. Closure, Post-Closure and Financial Responsibility Requirements 51 *FR* 16422, 5/2/86.	100.41, 100.61, 100.62, 260.10, 264.110-170, 265.110-120, 266.10-14, 266.16, 266.18
15. Listing of Spent Pickle Liquor, 51 *FR*19320, 5/28/86.	261.32
16. Dioxin Listing and Management Standards, 50 *FR* 1978, 1/14/85.	100.41, 261.4, 261.5, 261.7, 261.30, 261.33, 264.175, 264.194, 264.200, 264.231, 264.259, 264.283, 264.317, 264.343, 265.1, 265.352, 265.383
17. Codification Rule, 50 *FR* 28702, 7/15/85.	100.11, 100.12, 100.20, 100.21, 100.25, 100.41, 100.42, 100.43, 100.45, 100.61, 260.22, 261.4, 261.6, 261.33, 264.18, 262.41, 262.50, 264.70, 264.73, 264.90, 264.101, 264.221, 264.221, 264.222, 264.226, 224.228, 264.252-254, 264.301, 264.302, 264.303, 264.310, 264.314, 265.221, 265.254, 265.301, 267.23, 267.31, 267.34
18. Listing of TDI, DNT and TDA Wastes, 50 *FR* 42936, 10/23/85.	261.32, 261.33
19. Spent Solvents Listing, 50 *FR* 53315, 12/31/85.	261.31
20. EDB Waste Listing, 51 *FR* 5330, 2/13/85.	261.32
21. Four Spent Solvents Listing, 51 *FR* 6541, 3/24/86.	261.31, 261.33
22. Small Quantity Generators, 51 *FR* 10174, 3/24/86.	100.10, 100.11, 261.5, 261.33, 262.20, 262.34, 262.44, 263.20
23. Paint Filter Test Correction, 51 *FR* 19176, 5/28/86.	265.314

* Unless indicated as otherwise, all references are sections of 6 CCR 1007-3.

C. Decision

I conclude that the Colorado application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Colorado is granted final authorization to operate its hazardous waste program as revised in the September 30, 1988, application in lieu of the federal hazardous waste program. Colorado now has responsibility for premitting treatment, storage, and disposal facilities within its borders and for carrying out other aspects of the RCRA program, subject to the limitation of its September 30, 1988 revised program application and previously approved authorities. Colorado also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Colorado's program, thereby eliminating duplicative requirements for handlers of hazardous

waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibilitry analysis.

List of Subjects in 40 Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 6, 1989.

James J. Scherer,

Regional Administrator.

[FR Doc. 89-11583 Filed 5-12-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[FRL-3571-4]

Kentucky; Authorization of State Hazardous Waste Program

AGENCY: Environment Protection Agency.

ACTION: Affirmation of Immediate Final Rule.

SUMMARY: This notice responds to comments received on the immediate final rule published March 16, 1989 (54 FR 10986), and affirms the agency's decision to authorize Kentucky's revised program pursuant to 40 CFR 271.21(b)(3).

EFFECTIVE DATE: This decision is effective on May 15, 1989, at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Otis Johnson, Jr., at U.S.E.P.A. Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, telephone (404) 347-3016.

SUPPLEMENTARY INFORMATION: On March 16, 1989, EPA published an immediate final rule pursuant to 40 CFR 271.21(b)(3) at 54 FR 10986 which announced the agency's decision to authorize Kentucky's revisions to its hazardous waste program for non-HSWA Cluster I, the requirements prior to non-HSWA Cluster I, non-HSWA Cluster III and Availability of Information. Adverse public comment was received during the public comment period provided by this rulemaking. After considering the comments received, the Regional Administrator has decided to affirm his decision to authorize the Commonwealth of Kentucky for the aforementioned program revisions. The following is a summary of the substantive adverse comments and the Regional Administrator's response to them.

Comment 1: The commenter objected to the use of an immediate final rule to inform the public of the agency's authorization decision, claiming that this procedure violated 5 U.S.C. 553.

Response: In publishing the immediate final rulemaking decision the agency followed procedures authorized under 40 CFR 271.21 which the commenter recognized. Not only is this regulation no longer subject to challenge (see 42 U.S.C. 6976(a)(1)); the agency disagrees that it violates the letter or spirit of 5 U.S.C. 553. This regulation specifically provides the opportunity for the Regional Administrator to receive, consider and respond to significant comments before any decision becomes effective. This notice itself demonstrates compliance with U.S.C. 553. The opportunity for commenting under the immediate final rulemaking (IFR) process is no less than under the standard rulemaking process, and provides the same 30-day comment period. The immediate final rule process doesn't abridge public participation or public comment, but rather it permits the Agency to accelerate the authorization process for state modifications.

Comment 2: The commenter disagreed that the Kentucky Division of Waste Management (herein: DWM or Division) provides for public availability of information in substantially the same manner as would EPA, as is required by RCRA section 3006(f)(2) and 40 CFR Part 271. The commenter further stated that in several significant respects, the state procedures for release of information do not provide access to information in as open a manner as do EPA's procedures.

Specifically, the commenter asserted that the DWM does not provide for disclosure of records in response to written mail requests for information from individuals, but rather, requires that the individual travel to the office in which the records are maintained in order to gain access to them. The commenter also pointed out that in Kentucky the right to copies of information is adjunct to "the right to inspect records and as such limits availability of information for those who cannot travel to the situs of the records." The commenter also asserted that "the state should be required to implement a policy of providing disclosure of records based on written (and mailed) requests, consistent with 40 CFR 2.108."

Response: Kentucky's Memorandum of Agreement (MOA) with EPA dated December 4, 1988, signed by the Secretary of the Kentucky Natural Resources and Environmental Protection Cabinet and the Regional Administrator of the Environmental Protection Agency, and Kentucky's Commissioner of Law's Statement (dated November 14, 1988) both require that the Division provide for public availability of information in "substantially the same manner" as EPA, which includes consideration of waiver of fees for information considered to be in the public interest or contributing to the public's understanding of the operations or activities of government.

Regarding the commenter's assertion that the Division does not respond to written and mailed requests: the Division's administrative procedures (Departmental Policy Memorandum #8711-05) provide that written, mailed requests are responded to when the request is specific regardless of whether Kentucky form B-010-1 (Request to Inspect Public Records) is used by the requester. If the request is not specific enough to identify the requested material, a letter is sent to the requester within 10 days (as specified in Kentucky's MOA with EPA) asking that the specific information be identified. If the request includes a request for waiver of fee, form B-010-1 is forwarded to the Director of the Division who either approves or disapproves the request for waiver of fee and informs the requester within 10 days. When the specific information has been identified by the requester, within 10 days the Division sends a cost billing to the requester and a statement that advance payment is required. When payment is received the information is sent to the requester and a receipt is made.

The commenter is correct in asserting that under Kentucky law the right to copies of records is adjunct to the right to inspect records (KRS 61.874(2). However, KRS 61.874(2) also states in part that "Public agencies should accommodate requesters whenever they can within the bounds of the efficient operation of their office. Whenever only one item is requested, or a few precisely described items which are readily available within the office, and no special search is required, it will be more convenient both to the agency and to the requester to answer the request through the mail; to require the requester to appear in person at the office of the agency in such a case would not be more convenient to either party and would only inhibit the intended purpose of the Open Records Law."

Lastly, the State was not required by EPA to demonstrate equivalence to 40 CFR 2.108 regarding the form, written or

otherwise, that requests for information must take.

Comment 3: The commenter stated that the State should be required to adopt and publish its policy regarding fee schedules, fee thresholds and waiver of fees. Further, the commenter noted that the provisions of 40 CFR 2.120(a) providing for a threshold of 100 pages without charge for certain categories of request finds no parallel in state procedures. And that, under the Freedom of Information Act and 40 CFR 2.120(d), the cost of locating and reproducing information in response to a request may be waived if the agency determines that it is in the public interest to do so because the information is likely to contribute significantly to public understanding of the operations or activities of the government.

Response: The State has adopted statutes and regulations governing fees and waiver of fees for information at KRS 61.874(2) and 200 KAR 1:020 section 3.(1) (ten cents per page). There is no "fee threshold" in the State of Kentucky. The State was not required by the EPA to demonstrate equivalence to 40 CFR 2.120(a) which provides for a federal threshold of 100 pages for copying information without charge and sets fee schedules for cost of information released by the federal government based on federal pay scales. The Division has adopted language for fee waiver in the public interest deemed to be equivalent to 40 CFR 2.120(d) on page 22 of the current MOA between the Division and EPA. EPA does not require the State to publish or publicize its procedures for availability of information, fees, waiver of fees, etc.; these are a matter of public record.

Comment 4: The commenter expressed concern regarding the historical performance of the Division; that there had been repeated and chronic failures on the part of regulated industries in Kentucky to respond adequately to notice of permit deficiency (NOD) letters and follow-up letters from the Division, and, that the Division's lack of enforcement action or lack of permit denial condoned these failures or inactions on the part of industry. The commenter added that with respect to the Division's submittal in response to RCRA Revision Checklist 6, the commenter is concerned with the lack of specificity in the state description of how it will address "failure to qualify for interim status" as provided in § 270.70(b). Clarification should be required as to when the Division will opt for enforcement actions to allow the deficiency to be "cured," and when the failure to "cure" in a timely and adequate manner will result in further enforcement action.

Response: The Regional Administrator is aware of the Division's historical performance through twice yearly audits of the Division's hazardous waste management program. It is true that in some cases the Division has issued as many as four or five NOD's to industries before imposing penalties. At least one NOD is typically issued before further action is taken on deficient permit applications. Minor permit infractions are not penalized, major infractions are penalized and no interim status is granted; where a facility cannot meet permit conditions the application is rejected, the permit is denied and the facility is required to close. Issuance of repeated NOD's is a policy that current management of the Division rejects. EPA deals with this type of procedural situation through its oversight role rather than through the authorization process.

With regard to the commenter's concern regarding lack of specificity in the State's description of how it will address "failure to qualify for interim status"and clarification of when the Division will opt for enforcement action or allow the deficiency to be "cured". The foregoing gave indication of "how" this was accomplished. Note No. 8 in the State's program revision application gives indication of "when"; "for example, a deficiency resulting from amendments of the regulations would be handled by allowing the company the time allowed under the federal rules to correct the deficiency. However, deliberate or blatant deficiencies (such as illegal disposal) will be referred to enforcement immediately and would result in more timely enforcement actions than provided under the federal regulations at 40 CFR 270.70(b)." Kentucky has adopted EPA's RCRA Enforcement Response Policy dated October 1, 1988 and is thus bound by the Memorandum of Agreement between the Commonwealth of Kentucky and the EPA to take timely and appropriate enforcement action.

Comment 5: The commenter expressed concern over the alleged failure of the Division to provide for citizen participation in a manner consistent with federal regulations. The commenter's concern is reproduced in its entirety. "The state handles the vast majority of enforcement-related actions through an informal process of notification, negotiation and resolution through Agreed Orders. It is a relatively rare occurrence that a formal administrative hearing or civil action is commenced to compel compliance or punish violations of the state program. DWM has determined not to allow an interested person (such as one directly impacted by the violation, or a person whose information led to the enforcement response by the state) to participate in the compliance process unless a formal administrative proceeding is initiated by the cabinet, or after the disposition of a violation through Agreed Orders by initiating a formal hearing to review the agency action. The ratio of formal to informal dispositions is small, and the lion's share of enforcement actions are resolved behind closed doors in an informal matter. The results are decisions rendered often without complete information, and public confidence in the administrative process is eroded. Where informal disposition through Agreed Orders occurs, the public, in order to be heard on the underlying violation, must file a formal challenge *after* the fact in order to seek to participate, and then must bear a stringent burden of overcoming the agency decision and facing both the violator and the state as opponents to such involvement.

The state should be required to either open all Agreed Orders for public comment, or allow notice and opportunity for intervention of right prior to formal or informal disposition of enforcement actions in a timely manner for those persons with a "standing" interest and those persons whose information formed the basis of enforcement response by the agency."

Response: This comment does not raise a substantive issue that is relevant to the issue of the State's authorization. The Division has informed EPA that its process of notification, negotiation and resolution through Agreed Orders is designed to get hazardous waste management facilities and regulated industry back into compliance with permit conditions as quickly as possible in order to protect human health and the environment. There is no requirement in either state or federal regulations that allows public participation in the settlement negotiation process. In the Commonwealth of Kentucky and at the Environmental Protection Agency this is an area of enforcement discretion. Because discussion of confidential or proprietary business information takes place at these meetings, they have not traditionally been open to the public.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action

will not have a significant economic impact on a substantial number of small entities. It merely reaffirms a decision to authorize revisions to Kentucky's program. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 9, 1989.

Joe R. Franzmathes,

Regional Administrator.

[FR Doc. 89-11702 Filed 5-12-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 272

[FRL-3567-8]

Hazardous Waste Management Program Codification of Approved State Hazardous Waste Program for Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended, (RCRA) authorizes the United States Environmental Protection Agency (EPA) to grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. Title 40, Code of Federal Regulations (CFR) Part 272 codifies EPA's prior authorization of State programs and incorporates by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA, sections 3007, 3008, 3013, and 7003. Thus, EPA intends to codify the Minnesota authorized State program in CFR Part 272.

DATES: The codification of Minnesota's authorized hazardous waste program shall be effective July 14, 1989, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Minnesota's codification must be received by 4:30 p.m. June 14, 1989. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 1989.

ADDRESSES: Written comments should be sent to Christine Klemme, Minnesota Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 230 South Dearborn Street, 5HR-JCK-13, Chicago, Illinois, 60604, (312) 886-3715, (FTS: 8-886-3715).

FOR FURTHER INFORMATION CONTACT: Christine Klemme, Minnesota Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 230 South Dearborn Street, 5HR-JCK-13, Chicago, Illinois, 60604, (312) 886-3715, (FTS: 8-886-3715).

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6926 *et seq.*, allows the U.S. Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. The purpose of today's **Federal Register** notice is to codify EPA's approval of Minnesota's base hazardous waste management program and one revision to that program.

On November 21, 1984, EPA published a **Federal Register** notice announcing its decision to grant final authorization to Minnesota. This authorization was effective on February 11, 1985 (see 49 FR 226). On July 20, 1987, EPA published its decision to grant final authorization to Minnesota for certain program revisions. This authorization was effective on September 18, 1987 (see 52 FR 135).

Since that time, EPA has decided to codify its approval of State programs in CFR Part 272, and to incorporate by reference therein the State statutes and regulations that EPA will enforce under sections 3007, 3008, 3013, and 7003 of RCRA. The intended codification reflects the State program that was in effect when EPA granted Minnesota final authorization under section 3006(b) for its base hazardous waste program, and one revision. This effort will provide clearer notice to the public of the scope of the authorized program in each State. Such notice is particularly important in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Pub. L. 98-616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By codifying the authorized Minnesota program, and by amending the CFR whenever a new or different set of requirements is authorized in Minnesota, the status of federally approved requirements of the Minnesota program will be readily discernible. The revision application codified within contains no HSWA provisions.

The Agency will only codify for enforcement purposes those provisions of the Minnesota hazardous waste management program for which authorization approval has been granted by EPA. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR until the Regional Administrator publishes his final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogues.

To codify Minnesota's authorized hazardous waste program, EPA will add Subpart Y to Part 272 of Title 40 of the CFR. Subpart Y has previously been reserved for Minnesota. Sections 272.1201(a)(1), and 272.1201(b)-(d), intend to codify for enforcement purposes, the State statutes and regulations, the Memorandum of Agreement, the Attorney General's Statements, and the Program Descriptions which are authorized and made part of the hazardous waste management program under Subtitle C of RCRA.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedures Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to codify for purposes of enforcement such particular, authorized Minnesota enforcement authorities. Section 272.1201(a)(2) lists those authorized Minnesota authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions are not part of the RCRA Subtitle C program because they are "broader in scope" than RCRA Subtitle C (see 40 CFR 271.1(i)). As a result, State provisions which are "broader in scope" than the Federal program are not codified for purposes of enforcement in Part 272. Section 272.1201(a)(3) of the intended codification simply lists for reference and clarity the Minnesota statutory and regulatory provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program being codified. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

As noted above, the Agency is not amending 40 CFR Part 272 to include HSWA requirements and prohibitions that are immediately effective in Minnesota and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (See 50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and codified State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in § 271.21, and then to seek authorization for those revisions pursuant to 40 CFR Part 271. EPA expects that the States will be modifying their programs substantially and repeatedly. In general, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to § 271.1(j), as amended, which lists each such provision.

The codification of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Minnesota's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: April 17, 1989.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR Part 272 is amended to read as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority for 40 CFR Part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. 40 CFR Part 272 is amended by adding Subpart Y to read as follows:

Subpart Y—Minnesota

272.1200 State authorization.
272.1201 State-administered program: Final authorization.
272.1202–272.1249 [Reserved]

Subpart Y—Minnesota

§ 272.1200 State authorization.

(a) The State of Minnesota is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6921 *et seq.*, subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA), (Pub. L. 98–616, Nov. 8, 1984), 42 U.S.C. 6926 (c) and (g)). The Federal program for which a State may receive authorization is defined in 40 CFR Part 271. The State's base program, and the revision to that program, as administered by the Minnesota Pollution Control Agency, were approved by EPA pursuant to 42 U.S.C. 6926(b) and 40 CFR Part 271 of this Chapter. EPA's approval of Minnesota's base program was effective on February 11, 1985, (see 49 FR 226). EPA's approval of the revision to Minnesota's base program was effective on September 18, 1987, (see 52 FR 138).

(b) Minnesota is not authorized to implement any HSWA requirements in lieu of EPA unless EPA has explicitly indicated its intent to allow such action in a **Federal Register** notice granting Minnesota authorization.

(c) Minnesota has primary responsibility for enforcing its hazardous waste program. However, EPA retains the authority to exercise its enforcement authorities under sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, and 6973, as well as under other Federal laws and regulations.

(d) Minnesota must revise its approved program to adopt new changes to the Federal Subtitle C program in accordance with section 3006(b) of RCRA and 40 CFR Part 271, Subpart A. Minnesota must seek final authorization for all program revisions pursuant to section 3006(b) of RCRA but, on a temporary basis, may seek interim authorization for revisions required by HSWA pursuant to section 3006(g) of RCRA, 42 U.S.C. 6926(g). If Minnesota obtains final authorization for the revised requirements pursuant to section 3006(b), the newly authorized provisions will be listed in § 272.1201 of this subpart. If Minnesota, in the future, obtains interim authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in § 272.1202.

§ 272.1201 State-administered program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b):

Minnesota has final authorization for the following elements submitted to EPA in Minnesota's base program and base program revision application for final authorization as approved by EPA effective on February 11, 1985, (see 49 FR 226), and September 18, 1987, (see 52 FR 138):

(a) *State statutes and regulations.* (1) The requirements in the Minnesota statutes and regulations cited in this paragraph are incorporated by reference and codified as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a).

(i) Minnesota Statutes, Chapters 13.03; 13.05 subdivision 9; 115.061; 115A.03; 116.06; 116.07 subdivisions 4, 4a, 4b, 5, and 8; 116.075, and 116.081 subdivisions 1 and 3 (1984). Copies of the Minnesota regulations that are incorporated by reference in this paragraph are available from State Register and Public Documents Division, Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155.

(ii) Minnesota Rules, 7001.0010; 7001.0020(B); 7001.0030–7001.0150(3)(C); 7001.0150(3)(E)–7001.0200; 7001.0500–7001.0730(2); 7001.0730(4); 7045.0020–7045.0075; 7045.0120–7045.0133; 7045.0205–7045.0270(6); 7045.0275–7045.0460(1)(B); 7045.0462–7045.0508; 7045.0516–7045.0528(4); 7045.0528(6)–7045.0532(3); 7045.0532(5)–7045.0542(1)(C); and 7045.0542(1)(F)–7045.1005 (1985).

(2) Copies of the Minnesota regulations that are incorporated by reference in this paragraph are available from the State Register and Public Documents Division, Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155.

Statutes, Chapters 15.0411–15.052; 115.07 subdivisions 2a, 2b, 3, 4 and 4a; 115.071, 116.091 and 116.11; and 116B.09 (1984).

(3) The following statutes and regulations are broader in scope than the Federal program, are not part of the authorized program, and are not codified herein for enforcement purposes.

(i) Minnesota Statutes, Chapter 115A and 115A.291 (1984).

(ii) Minnesota Rules, 7001.0020(A); 7001.0020 (C)–(K); 7001.0210; 7001.0730(3); 7001.0730(5); 7045.0270(7); 7045.0460(2); 7045.1010; 7045.1020; 7045.1030; and 7046.0020 (1985).

(b) *Memorandum of agreement.* The Memorandum of Agreement between EPA-Region V, and the Minnesota Pollution Control Agency, signed by the EPA Regional Administrator on October 29, 1984, and June 15, 1987, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statements of legal authority.* The Minnesota Attorney General's Statements for final authorization signed by the Attorney General of Minnesota on July 25, 1984, and June 26, 1986, are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) *Program description.* Program Descriptions dated June 30, 1984, and June 30, 1986, and any other materials submitted as part of, or as supplements to, the original application or revision applications are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

§§ 272.1202–272.1249 [Reserved]

[FR Doc. 89–11229 Filed 5–12–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1351

RIN 0980–AA11

Runaway and Homeless Youth Program

AGENCY: Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Final rule with comment period.

SUMMARY: This final rule amends the regulations for the Runaway and Homeless Youth Program to clarify the match requirement for grants awarded under this program and make technical and editorial changes to reflect new statutory language.

EFFECTIVE DATE: This final rule will be effective May 15, 1989. However, we will consider comments received on or before July 14, 1989.

ADDRESSES: Please submit written comments to: Pamela A. Johnson, Division of Program Operations, Family and Youth Services Bureau/ACYF; P.O. Box 1182, Washington, DC 20013.

Beginning two weeks after the close of the comment period, comments will be available for public inspection in Room 2427, Switzer Building, 300 "C" Street, SW., Washington, DC 20201, Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m., except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pamela A. Johnson (202) 245–0043.

SUPPLEMENTARY INFORMATION:

I. Program Description

The purpose of the Runaway and Homeless Youth Act (the Act), Title III of the Juvenile Justice and Delinquency Prevention Act, is to provide financial assistance to establish or strengthen community-based centers designed to address the immediate service needs of runaway and homeless youth and their families. The mandated services are temporary shelter, crisis intervention, counseling, and aftercare follow-up. The law mandates that grantee organizations be outside the law enforcement structure and the juvenile justice system. The statute also contains a provision for technical assistance and short-term training to grantees.

Entities eligible for grants are: States, localities, private for-profit and private non-profit agencies, and coordinated networks of such agencies. In fiscal year 1988, OHDS funded 327 centers, nine regional coordinated networks (one network is providing services to two regions) and the National Communications System (National Runaway Switchboard). The Department of Health and Human Services (DHHS) estimates that over 340,000 youth and their families received services under the Runaway and Homeless Youth Program during FY 1988.

This Act was originally authorized as Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 and was amended by the Juvenile Justice Amendments of 1980 (Pub. L. 96–509), the Juvenile Justice Amendments of 1984 (Pub. L. 98–473), and the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690).

II. Purpose of the Final Rule

The Runaway and Homeless Youth Program is administered by the Family and Youth Services Bureau of the Administration for Children, Youth and Families (ACYF) in OHDS. This office is revising its existing Runaway and Homeless Youth Program regulations at 45 CFR Part 1351, last published on November 28, 1978 (43 FR 55634), in order to clarify the match requirements for grants awarded under this program and to make technical and editorial changes to comport with changes in the language of the statute, as amended.

III. Summary of Amendments to the Runaway and Homeless Youth Act and Changes Proposed in This Final Rule

A. The 1988 Amendments

The 1988 amendments to the Act made several changes. The title of the Act was modified to include homeless youth; the title is now the "Runaway and Homeless Youth Act." The National Communications System (National Runaway Switchboard) which assists runaway and homeless youth in communicating with their parents and with service providers was authorized. A formula for equitably distributing the program funds among the States was also established. The States receive allocations based upon their respective populations of youth under 18 years of age (based on the latest data from the Census Bureau). The amendments also added the opportunity for the families of runaway and homeless youth served by the centers to receive assistance to meet their immediate needs related to runaway episodes.

Based on these amendments, we are proposing to change the title of 45 CFR Part 1351 to the Runaway and Homeless Youth Program and add the words "and homeless" after the word "runaway" whenever it appears in the rule.

B. The 1984 Amendments

The 1984 amendments broadened the eligibility for assistance under the Act to allow private, profit-making as well as non-profit entities and coordinated networks of such entities to receive grants. Section 366(d), formerly section 331(c), stipulates that no funds appropriated to carry out the purposes of this title may be used for any program or activity which is not specifically authorized by Title III; or may be combined with funds under any other Act unless such funds are separately identified in all grants and contracts and are used for the purposes specified in this title.

Based on the 1984 amendments, we are proposing to delete all references to the term "non-profit" as an organizational status requirement for eligibility under this program.

C. The 1988 Amendments

The 1988 amendments provide for the implementation of transitional living services for homeless youth when the Title III appropriation reaches the full authorization level; the specification of funding levels for the National Communication System; and the annual publication in the Federal Register of a proposed plan specifying the subject priorities the Secretary will follow in making grants for each fiscal year. These amendments require no change in the regulations.

D. Other Changes

In addition, questions have been raised over the past several years regarding section 362, formerly section 318 of the Act, and how the required match is computed. We are taking advantage of this final rule to clarify that the grantee must provide a non-Federal share equal to at least 10 percent of the Federal funds requested under the Act. This is not a change in policy.

Finally, we are taking this opportunity to make technical and editorial changes and to change the language referring to "parent," "parents," and/or "legal guardian" to "family" or "families" to comport with the addition of these words throughout the statute.

IV. Waiver of Notice and Comment Procedure

This rule is being published as a final rule because it contains purely technical changes generally reflecting statutory language and will not require any new action on the part of the grantees under the program.

Accordingly, the Secretary has determined that it would be unnecessary to use the notice and comment procedures in issuing these regulations.

V. Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the economy of $100 million or more, or certain other specified effects. Since nothing in the NPRM is likely to have an effect on the economy of $100 million, the Secretary concludes that this regulation is not a major rule within the meaning of the Executive order.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C., Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations, and small entities. While these regulations would affect small entities, these changes are technical and editorial in nature. For this reason, the Secretary certifies that these rules will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96-511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record keeping requirement inherent in a proposed or final rule. This final rule does not contain information collection requirements or increase Federal paperwork burden on the public or private sector.

List of Subjects in 45 CFR Part 1351

Youth, Administrative practice and procedure, Social service program, Technical assistance, Reporting requirements.

For the reasons set forth in the preamble, Chapter III, Subchapter F is amended as follows:

1. The title of Chapter XIII, Subchapter F, is revised to read as follows:

SUBCHAPTER F—THE ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, FAMILY AND YOUTH SERVICES BUREAU

2. The authority citation for Part 1351 is revised to read as follows:

Authority: 42 U.S.C. 5701.

3. The title of 45 CFR Part 1351 is revised to read as follows:

PART 1351—RUNAWAY AND HOMELESS YOUTH PROGRAM

4. The Table of Contents of Part 1351 is amended to add the words "and homeless" after the word "runaway" wherever it appears.

5. Part 1351 is amended to change all references to "parent," "parents," and/or "legal guardian" to "family" or "families" whenever such words appear.

§ 1351.1 [Amended]

6. Section 1351.1 is amended as follows:

(a) The reference to "nonprofit" in the definition of coordinated networks of agencies is removed from paragraph (c);

(b) Paragraph (j), the definition of "a nonprofit private agency", is removed; and

(c) Paragraph (k) (l), (m), (n), (o) and (p) are redesignated as paragraphs (j), (k), (l), (m), (n) and (o), respectively;

7. Section 1351.11 is revised to read as follows:

§ 1351.11 Who is eligible to apply for a Runaway and Homeless Youth Program grant?

States localities, private entities, and coordinated networks of such entities are eligible to apply for a Runaway and Homeless Youth Program grant unless they are part of the law enforcement structure or the juvenile justice system.

8. Section 1351.13 is revised to read as follows:

§ 1351.13 What are the Federal and non-Federal match requirements under a Runaway and Homeless Youth grant?

HHS requires a non-Federal share which is equal to at least 10 percent of the Federal funds that will be received under this grant program for any fiscal year.

(Catalog of Federal Domestic Assistance Program, Number 13.623, Runaway and Homeless Youth Program.)

Dated: March 30, 1989.

Sydney Olson,

Assistant Secretary for Human Development Services.

Approved: May 1, 1989.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

[FR Doc. 89-11569 Filed 5-12-89; 8:45 am]

BILLING CODE 4310-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-164; RM-6245]

Radio Broadcasting Services; Woodbury, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 285A to Woodbury, Tennessee, as that community's first local FM service, at the request of Bart Walker. *See* 53 FR 15575, May 2, 1988. The channel allotment can be made in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.4 kilometers (3.4 miles) northwest of Woodbury. The coordinates are 35-51-09 and 86-07-19. With this action, this proceeding is terminated.

DATES: Effective June 19, 1989; the window period for filing applications will open on June 20, 1989, and close on July 20, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-164, adopted April 24, 1989, and released May 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Tennessee, by adding Woodbury, Channel 285A.

Karl A. Kensinger,

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

[FR Doc. 89-11498 Filed 5-12-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 76

[FCC No. 89-124]

Broadcast and Cable Services; Amendments to §§ 73.1211 and 76.213 of the Commission's Rules Governing the Broadcast and Cablecast of Lottery Information Regarding Indian Gaming

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends §§ 73.1211 and 76.213 of the Commission's Rules, to permit the broadcast and cablecast of information and advertisements pertaining to certain Indian gaming activities. The amendments are necessary in order to bring Commission rules into conformity with a recently enacted federal statute, the Indian Gaming Regulatory Act, which authorizes the broadcast of certain Indian gaming information previously prohibited by 18 U.S.C. 1304.

EFFECTIVE DATE: June 14, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ellen J. Schned, Mass Media Bureau, (202) 632-3922.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, FCC No. 89-124, adopted April 25, 1989, and released April 26, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. On October 17, 1988, the Indian Gaming Regulatory Act ("Act"), Pub. L. No. 100-497, 102 Stat. 2467 (to be codified at 25 U.S.C. 2701 *et seq.*) was enacted, and became effective immediately. This new statute establishes the National Indian Gaming Commission ("Commission") and permits the advertising of certain gaming activities. Prior to the adoption of this Act, the broadcast of most lottery information was prohibited by federal statute. (18 U.S.C. 1304) Exemptions to the general prohibition against lottery broadcasts exist which permit the broadcast of information regarding certain state conducted lotteries either in the state conducting the lottery or in adjacent states that also conduct a lottery. (18 U.S.C. 1307(a)(2)) The new Act exempts certain Indian gaming activities from the coverage of Title 18 U.S.C. 1304, thereby permitting the broadcast of information regarding such activities under Federal law.

2. In conformity with federal statutes, the Commission's Rules prohibit the broadcast and cablecast of most lottery information. (47 CFR 73.1211 and 76.213). Because the Indian Gaming Regulatory Act now expressly permits the broadcast of certain Indian gaming information, the Commission no longer can restrict such broadcasts and cablecasts under its own Rules. Therefore, the Commission adopted this *Report and Order*, amending §§ 73.1211 and 76.213 of its Rules to permit the broadcast and cablecast of certain Indian gaming information as authorized by the Act, in order to bring the Rules into conformity with Federal law.

Paperwork Reduction Act Statement

3. The rule amendments adopted in this *Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to

contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; nor will they increase or decrease burden hours imposed on the public.

Ordering Clause

4. Authority for the rule changes adopted in this *Report and Order* are contained in sections 4 and 303 of the Communications Act of 1934, as amended.

5. Accordingly, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d)(1), the amendments to the Commission's Rules adopted in this *Report and Order* shall become effective 30 days from the date of its publication in the **Federal Register**.

List of Subjects

47 CFR Part 73

Television broadcasting, Radio broadcasting.

47 CFR Part 76

Cable television.

Rule Amendments

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

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

6a. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

PART 73—[AMENDED]

Title 47 CFR Part 73 is amended as follows:

7. In § 73.1211 a new paragraph (c)(3) is added to read as follows:

§ 73.1211 Broadcast of lottery information.

* * * * *

(c) * * *

(3) Any gaming conducted by an Indian Tribe pursuant to the Indian Gaming Regulatory Act (25 U.S.C 2701 *et seq.*).

* * * * *

PART 76—[AMENDED]

Title 47 CFR Part 76 is amended as follows:

8. Section 76.213 is amended by revising paragraph (c) to read as follows:

§ 76.213 Lotteries.

* * * * *

(c) The provisions of paragraphs (a) and (b) of this section shall not apply to advertisements or lists of prizes or information concerning:

(1) A lottery conducted by a State acting under the authority of State law when such information is transmitted:

(i) By a cable system located in that State,

(ii) By a cable system located in an adjacent State which also conducts such a lottery, or

(iii) By a cable system located in another State which is integrated with a cable system described in (c)(1) (i) or (ii) herein, if termination of the receipt of such transmission by the cable system in such other State would be technically infeasible.

(2) Any gaming conducted by an Indian Tribe pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*).

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-11497 Filed 5-12-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-201B; Amdt. No. 173-211]

RIN: 2137-AB39

Shippers; Use of Tank Car Tanks With Localized Reductions in Shell Thickness

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Final rule; Extension of effective date.

SUMMARY: RSPA is extending the effective date of a final rule published on February 28, 1989, under Docket No. HM-201B, from June 1, 1989 to September 1, 1989. This action is necessary to allow RSPA and the Federal Railroad Administration (FRA) time to review several petitions for reconsideration which were received in response to the final rule.

EFFECTIVE DATE: September 1, 1989. However, compliance with the final rule is authorized as of March 30, 1989.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Morris, Standards Division, Office of Hazardous Materials, U.S. Department of Transportation, Exemptions and Regulations Termination Branch, 400 Seventh Street, SW., Washington DC, 20590, (202) 366-4488.

SUPPLEMENTARY INFORMATION: On February 28, 1989, RSPA published a final rule (Docket No. HM-201B; Amdt. No. 173-208; 54 FR 8336) concerning the use of tank cars which have localized reductions in shell thickness due to repairs. RSPA has received 12 petitions for reconsideration as a result of that final rule. This action, which extends the effective date of the final rule, is necessary because RSPA finds it impracticable to take action and respond to certain issues discussed in the petitions within the 90-day period mentioned in 49 CFR 106.37(b).

The extension of the effective date of the final rule from June 1, 1989 to September 1, 1989, will allow additional time for RSPA and FRA to consider and review any technical data made available by the petitioners and to prepare an appropriate response. In the interim, parties may avail themselves of the flexibility provided by the final rule by complying with its provisions.

Issued in Washington, DC, on May 8, 1989, under authority delegated in 49 CFR Part 1.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 89-11533 Filed 5-12-89; 8:45 am]

BILLING CODE 4910-60-M

Proposed Rules

Federal Register
Vol. 54, No. 92
Monday, May 15, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 918

[Docket No. FV-89-050]

Expenses and Assessment Rate for Marketing Order Covering Fresh Peaches Grown in Georgia

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order 918 for the 1989–90 fiscal period which began March 1, 1989. The proposal is needed for the Georgia Peach Industry Committee (Committee) established under the order to incur operating expenses during the 1989–90 fiscal period and to collect funds during that period to pay those expenses. This would facilitate program operations. Funds to administer this program are derived from assessments on handlers.

DATE: Comments must be received by May 25, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530–S, Washington, DC 20090–6456, telephone 202–475–3919.

SUPPLEMENTARY INFORMATION:

This rule is proposed under Marketing Agreement and Marketing Order No. 918 (7 CFR Part 918) regulating the handling of fresh peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

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

There are approximately 18 handlers of Georgia peaches regulated under this marketing order each season, and approximately 180 peach producers in Georgia. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers of Georgia peaches may be classified as small entities.

The Georgia Peach marketing order, administered by the Department of Agriculture (Department), requires that the assessment rate for each fiscal year shall apply to all assessable peaches handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are producers of Georgia peaches. They are familiar with the Committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of Georgia peaches (in bushels). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to the pay the Committee's expected expenses. Recommended budgets and rates of assessment are usually acted upon by the Committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the Committee will have funds to pay its expenses.

The Committee unanimously recommended 1989–90 fiscal period expenditures of $12,810 and an assessment rate of $0.005 per bushel of assessable peaches shipped under M.O. 918. In comparison, 1988–89 fiscal period expenditures were $11,122 and the assessment rate was $0.005. The total budget, which is about the same as last year's, is for program administration.

Assessment income is estimated at $7,486 for the 1989–90 fiscal period based on shipments of 1,497,200 bushels of fresh peaches. Interest income will amount to approximately $1,587. Committee reserves funds will be utilized to cover the anticipated $3,737 deficit for the 1989–90 fiscal period. In the 1988–89 fiscal period, assessment income totalled $8,080 based on shipments of 1,339,000 assessable bushels of peaches and interest income totalled $1,616.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed onto producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approvals for the Georgia peach program need to be expedited. The

Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 918

Marketing agreements and orders, Peaches, Georgia

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 918 be amended as follows:

PART 918—[AMENDED]

1. The authority citation for 7 CFR Part 918 continues to read as follows:

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

2. New section 918.226, is added to read as follows:

PART 918—FRESH PEACHES GROWN IN GEORGIA

§ 918.226 Expenses and assessment rate.

Expenses of $12,810 by the Georgia Peach Industry Committee are authorized, and an assessment rate of $0.005 per bushel of assessable peaches is established for the fiscal period ending February 28, 1990.

Dated: May 10, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–11592 Filed 5–12–89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1007

[DA–89–017]

Milk in the Georgia Marketing Area; Termination of Proceeding on Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding on proposed suspension of rules.

SUMMARY: This action terminates a proceeding that was initiated to consider a proposal to suspend a provision of the producer milk definition of the Georgia milk order for an indefinite period. The suspension was requested by Land-O-Sun Dairies, Inc., the operator of three pool plants under the Georgia milk order, to increase the amount of milk that could be shipped directly from the farm to nonpool plants and still be priced under the order. The plant operator contends that the suspension is necessary due to changed marketing conditions and to permit the efficient marketing of milk of dairy farmers who deliver milk to the company's three plants.

An evaluation of data, views and arguments indicates that there is an insufficient basis for the requested action.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 30, 1989; published April 5, 1989 (54 FR 13692).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This proceeding was initiated by a notice of proposed suspension published in the **Federal Register** on April 5, 1989 (54 FR 13692) concerning a proposed suspension of a certain provision of the Georgia Federal milk order. Interested persons were invited to comment on the proposal in writing by April 12, 1989.

Statement of Consideration

The proposed suspension would have suspended a portion of the producer milk definition of the Georgia milk order for an indefinite period. The effect of the proposal would have been to allow more milk of producers who are not members of a cooperative association (nonmembers) to be shipped directly from farms to nonpool plants and still be priced and pooled under the order.

The order provides that the operator of a pool plant other than a cooperative association may divert for the operator's account only the milk of nonmember producers in an amount not to exceed 25 percent of the milk physically received at the plant from such nonmember producers. In addition, 10 days' production of each producer whose milk is diverted must be physically received at a pool plant.

Under the requested suspension, a plant operator would still only be allowed to divert the milk of nonmember producers. However, a greater quantity of milk could be diverted since the plant operator would be able to divert up to 25 percent of the plant's physical receipts from both cooperative associations and from nonmember producers. The plant operator would still need to receive 10 days' milk production at the pool plant from each nonmember whose milk is diverted.

The suspension was requested by Land-O-Sun Dairies, Inc., the operator of three pool plants regulated under the Georgia order. The company indicated that the three plants process between 30 and 40 percent of the total bulk milk receipts of the Georgia market. During the spring months of this year, Land-O-Sun expects that it will need to divert two million pounds of milk in excess of the amount allowable under the current order provisions. The company estimates that its total diversions in the coming months will approximate 12 percent of the total receipts of milk at its three plants from cooperative associations and nonmember producers.

Land-O-Sun indicated that marketing conditions at its three plants have changed markedly since July 1988. Prior to that time, a major cooperative association had completely balanced the supply of milk at the company's Spartanburg, South Carolina, plant and partly balanced the supply at the company's plants at Atlanta and Waycross, Georgia. Presently, Land-O-Sun obtains milk from cooperative associations other than its previous supplier and from nonmember producers at each of its three plant locations. The nonmember producers are located in Kentucky, Tennessee, and Georgia. None of the cooperatives supplying the Land-O-Sun plants are balancing the supply of milk at such plants. Instead, the operator of each plant must divert the milk of nonmembers to balance the milk supply for that plant.

Land-O-Sun requested that the suspension be made effective April 1, 1989. The company indicated that the two principal plants available for balancing its milk supply are the Cumberland Creamery in Nashville, Tennessee, and Hart County Cheese plant in Hart County, Kentucky. In the absence of the requested suspension, the company can pool all of its nonmember milk only if it moves about 2 million pounds of milk from Kentucky and Tennessee to the Atlanta or Spartanburg plant, and then returns the milk to manufacturing plants located in the same area where the milk was produced. The suspension would eliminate the need to move the milk to the central market locations and then return such milk to the production area solely for the purpose of having the milk priced under the order.

In response to the notice of proposed suspension, three supporting comments were received from interested parties. Such parties include: Milkco, Inc. and Kinnett Dairies, Inc., which operate distributing plants that are pooled under the order, and the the National Farmers Organization, Inc. (NFO), a cooperative association that represents producers who supply the Georgia market. None of these parties indicated any specific need for the suspension action but indicated

that such action would eliminate the possibility of costly and inefficient movements of milk that would be made for pooling purposes. NFO further indicated that any abuse of the suspension could be rectified by a termination action and that any concern over the indefinite nature of the proposed action could be rectified by specifying a limited time period during which a request for an appropriate permanent amendment could be processed.

Opposition to the proposed action was received from two handlers who operate plants that are pooled under neighboring Federal orders: the Kroger Co., and Malone & Hyde. Also, two cooperative associations that represent producers who supply the market (Dairymen, Inc. and Coble Dairy Products Cooperative, Inc.) opposed the proposed suspension. Twenty-eight individual dairy farmers and the Hall County Farm Bureau also opposed the action.

The views of these parties indicate several major points of opposition to the proposed action. Opponents contend that the decision of Land-O-Sun to change its source of supply and to actively solicit nonmember producers is a business decision that was made with the full knowledge of the current order limitations that are applicable to the quantity of milk that may be diverted to nonpool plants. The further contend that the decision to divert nonmember milk to balance its fluid milk needs, versus the diversion of milk by cooperative associations that also supply the plants, is also a business decision under the control of Land-O-Sun and, consequently, is not a sufficient basis for a suspension action. Basically, opponents contend that the change in marketing conditions referred to by Land-O-Sun is a result of its own activities and that there is no demonstration of the existence of a significant marketwide problem to warrant the proposed action.

Opponents also contend that the proposed action would provide the opportunity for additional quantities of unneeded milk to become associated with the market to the detriment of producers who currently supply the market. Opponents point out that both proprietary handlers and cooperative associations would be eligible to divert milk to nonpool plants on the basis of the same quantities of milk received at pool plants. They indicate that such a deviation represents a significant change from current order provisions that were developed through the formal rulemaking process. As a result, they contend that a change of such magnitude, for an indefinite period of time, should not be implemented by a suspension (or informal rulemaking) action.

In its request for the suspension action, Land-O-Sun estimated that uneconomic movements of milk this spring would involve approximately two million pounds of milk per month. Such a situation does not reflect a need for an indefinite suspension of the provision. However, at the same time, the request for an indefinite suspension implies the perception of a marketing condition change of a longer, or perhaps a permanent, duration by Land-O-Sun. As a result, there is no indication that the action is intended to reflect a temporary, or seasonal problem in marketing the milk of producers who have historically been associated with the market.

In view of the above considerations it is concluded that the proposal shoud not be adopted. Therefore, the requested suspension is hereby denied and the proceeding is terminated.

List of Subjects in 7 CFR Part 1007

Milk marketing orders, Milk, Dairy products.

The authority citation or 7 CFR Part 1007 continues to read as follows:

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

Signed at Washington, DC on May 5, 1989.

Robert Melland,

Deputy Assistant Secretary
Marketing and Inspection Services.

[FR Doc. 89–11591 Filed 5–12–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N–89–1963; FR–2633]

Section 8 Housing Assistance Payments Program; Suffolk County, NY; Special Revisions for Fiscal Year 1986 and Fiscal Year 1987

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed notice.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to establish Fair Market Rents (FMRs) periodically, but not less frequently than annually. This document proposes to amend the Fiscal Year 1986 and the Fiscal Year 1987 Fair Market Rent Schedules to establish new FMRs for the Suffolk County, New York market area for those fiscal years. These rents are necessary to provide FMRs more comparable to market rents for new construction in this market area.

COMMENT DUE DATE: June 14, 1989.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Offices of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours (8:45 am to 5:15 pm) at the above address.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Insured Multifamily Housing Development, 451 Seventh Street, SW., Washington, DC 20410–0500, telephone (202) 426–7624. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the Act) authorizes a system of housing assistance payments to aid lower income families in renting decent, safe, and sanitary housing. These programs, known collectively as the Section 8 Housing Assistance Payments Program, provide assistance payments for lower income families for a variety of housing options, including new construction and substantial rehabilitation.

Under these programs, HUD or public housing agencies (PHAs) make rental assistance payments of behalf of eligible families to owners. When families lease an eligible unit, the housing assistance payment is made and is based upon the difference between the total housing expense and the total family contribution. Initial contract rents, plus an allowance for utilities generally may not exceed area-wide Fair Market Rents (FMRs) established by the Department. FMRs are based primarily on the level of rentals paid for recently completed or newly constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. For the FY 1987 FMRs previously promulgated by the Department (see the April 26, 1988 **Federal Register**, 53 FR 14954), these rents reflected the Department's cost containment efforts in relation to housing assistance provided

in the section 8 New Construction and Substantial Rehabilitation Programs.

This Document

This document proposes special revisions to the Fiscal Year 1986 and the Fiscal Year 1987 Fair Market Rent schedules applicable to the Suffolk County, New York market area. These FMRs reflected data submitted by the New York Office. Where sufficient market rental comparables do not exist, HUD procedures permit the use of an interpolation technique to arrive at indicated FMRs. Although the use of interpolation and adjustments to establish rents are sound principles and techniques, the best data for "market rents" would be that from recently constructed projects, as it would necessarily reflect current conditions in the marketplace with respect to financing, vacancy rates, etc., and would provide a degree of assurance that rents so derived should be adequate to support new projects, all factors being equal.

The New York Office requested that the Department establish new rents for the Suffolk County, New York market area. Careful analysis of this request and reanalysis of the FY 1986 and FY 1987 FMRs for this market area indicate that the rents resulting from the application of the aforementioned techniques, when modified to reflect the Department's cost containment policies, are not adequate, even when it is clear that there has been compliance with the Department's cost containment guidelines with respect to project design. Therefore, upward adjustments of the FY 1986 and FY 1987 FMRs for this market area are needed. Accordingly, the Department is proposing revisions of the FY 1986 and FY 1987 schedules applicable to the Suffolk County, New York market area. It is intended that when these schedules are published for effect, their applicability will be the same as set forth in the preamble to the original FY 1986 and FY 1987 schedules, published on August 7, 1986, at 51 FR 28486, and April 26, 1988, at 53 FR 14954, respectively.

Other Information

HUD regulations in 24 CFR Part 50, implementing section 102(2)(c) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the FMRs established in this Notice are within the exclusion set forth in § 50.20(1), no environmental assessment is required, and no environmental finding has been prepared

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this Notice are 14.156, Lower Income Housing Assistance Program (Section 8).

Accordingly, the following amendments to the FY 1986 and FY 1987 Fair Market Rent schedules are proposed for the Suffolk County, New York Market Area:

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES' PROGRAMS)

[Region 2—New York Regional Office Market: Suffolk County, New York]

Structural	Number of Bedrooms				
	0	1	2	3	4+
Special Revision of FY 1986 FMRs:					
Detached	.....	.....	925	1,121	1,250
Semi-Detached/Row	699	741	878	918	1,093
Walkup	561	654	787	858	947
Elevator 2-4 STY	721	847	1,032	.....	.....
Elevator 5+ STY	779	868	1,085	.....	.....
Special Revision of FY 1987 FMRs:					
Detached	.....	.....	1,013	1,228	1,369
Semi-Detached/Row	766	811	961	1,005	1,197
Walkup	615	716	862	939	1,037
Elevator 2-4 STY	790	928	1,130	.....	.....
Elevator 5+ STY	853	951	1,188	.....	.....

Authority: Section 8(c)(1), U.S. Housing Act of 1937, 42 U.S.C. 1437f; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: May 5, 1989.

James E. Schoenberger,

Deputy General Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 89-11551 Filed 5-12-89; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 888

[Docket No. N-89-1962; FR 2636]

Section 8 Housing Assistance Payments Program; Albany, NY; Special Revisions for Fiscal Year 1986 and Fiscal Year 1987

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed notice.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to establish Fair Market Rents (FMRs) periodically, but not less frequently than annually. This document proposes to amend the Fiscal Year 1986 and the Fiscal Year 1987 Fair Market Rent Scheduels to establish new FMRs for the Albany, New York market area for those fiscal years. These rents are necessary to provide FMRs more comparable to market rents for new construction in this market area.

COMMENT DUE DATE: June 14, 1989.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Offices of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) at the above address.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Insured Multifamily Housing Development, 451 Seventh Street, SW., Washington, DC 20410-0500, telephone (202) 426-7624. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the Act) authorizes a system of housing assistance payments to aid lower income families in renting decent, safe, and sanitary housing. These programs, known collectively as the Section 8 Housing Assistance Payments Program, provide assistance payments for lower income families for a variety of housing options, including new construction and substantial rehabilitation.

Under these programs, HUD or public housing agencies (PHAs) make rental assistance payments on behalf of eligible families to owners. When families lease an eligible unit, the housing assistance payments is made and is based upon the difference between the total housing expense and the total family contribution. Initial contract rents, plus an allowance for utilities generally may not exceed area-wide Fair Market Rents (FMRs) established by the Department. FMRs are based primarily on the level of rentals paid for recently completed or newly constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. For the FY 1987 FMRs previously promulgated by the Department (see the

April 26, 1988 **Federal Register**, 53 FR 14954), these rents reflected the Department's cost containment efforts in relation to housing assistance provided in the Section 8 New Construction and Substantial Rehabilitation Programs.

This Document

This document proposes special revisions to the Fiscal Year 1986 and the Fiscal Year 1987 Fair Market Rent schedules applicable to the Albany, New York market area. These FMRs reflected data submitted by the Buffalo Office. Where sufficient market rental comparables do not exist, HUD procedures permit the use of an interpolation technique to arrive at indicated FMRs. Although the use of interpolation and adjustments to establish rents are sound principles and techniques, the best data for "market rents" would be that from recently constructed projects, as it would necessarily reflect current conditions in the marketplace with respect to financing, vacancy rates, etc., and would provide a degree of assurance that rents so derived should be adequate to support new projects, all factors being equal.

The Buffalo Office requested that the Department establish new rents for the Albany, New York market area. Careful analysis of this request and reanalysis of the FY 1986 and FY 1987 FMRs for this market area indicate that the rents resulting from the application of the aforementioned techniques, when modified to reflect the Department's cost containment policies, are not adequate, even when it is clear that there has been compliance with the Department's cost containment guidelines with respect to project design. Therefore, upward adjustments of the FY 1986 and FT 1987 FMRs for this market area are needed. Accordingly, the Department is proposing revisions of the FY 1986 and FY 1987 schedules applicable to the Albany, New York market area. It is intended that when these schedules are published for effect, their applicability will be the same as set forth in the preamble to the original FY 1986 and FY 1987 schedules, published on August 7, 1986, at 51 FR 28486, and April 26, 1988, at 53 FR 14954, respectively.

Other Information

HUD regulations in 24 CFR Part 50, implementing section 102(2)(c) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the FMRs established in this Notice are within the exclusion set forth in § 50.20(1), no environmental assessment is required, and no environmental finding has been prepared.

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this Notice are 14.156, Lower Income Housing Assistance Program (section 8).

Accordingly, the following amendments to the FY 1986 and FY 1987 Fair Market Rent schedules are proposed for the Albany, New York Market Area:

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES' PROGRAMS)

[Region 2—New York Regional Office Market: Albany, New York]

Structural	Number of Bedrooms				
	0	1	2	3	4+
Special Revision of FY 1986 FMRs:					
Detached	.....	.....	584	706	782
Semi-Detached/ Row	425	430	515	626	694
Walkup	367	419	491	578	656
Elevator 2-4 STY	372	451	571	.....	.....
Elevator 5+ STY	399	494	615	.....	.....
Special Revision of FY 1987 FMRs:					
Detached	.....	.....	624	754	835
Semi-Detached/ Row	453	459	550	669	741
Walkup	391	447	524	617	700
Elevator 2-4 STY	397	481	609	.....	.....
Elevator 5+ STY	426	527	656	.....	.....

Authority: Section 8(c)(1), U.S. Housing Act of 1937, 42 U.S.C. 1437f; section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: May 5, 1989.

James E. Schoenberger,

Deputy General, Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 89-11552 Filed 5-12-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[FI-91-86]

RIN: 1545-AJ67

Arbitrage Restrictions on Tax-Exempt Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to arbitrage restrictions on tax-exempt bonds. Changes to the applicable law were made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. The text of those temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: The amendments to the regulations are proposed to be effective generally for private activity bonds issued after December 31, 1985, and for bonds other than private activity bonds issued after August 31, 1986. Written comments and requests for a public hearing must be delivered or mailed by July 14, 1989.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, Attention: CC:CORP:T:R (FI-91-86), Room 4429, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: George F. Delduke, (202) 566-4545 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer TR:FR, Washington, DC 20224.

The collections of information in this regulation are in §§ 1.148-0T, 1.148-1T, 1.148-3T, and 1.148-8T. This information is required by the Internal Revenue Service to properly credit the amount of arbitrage profits rebated to the United States by issuers of tax-exempt bonds pursuant to section 148(f) of the Internal Revenue Code of 1986. This information will be used to ensure that issuers of tax-exempt bonds are rebating arbitrage profits as required by section 148(f). The likely respondents are State and local governments.

The following estimates are an approximation of the average time expected to be necessary for a

collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances. The estimates below represent only the estimated time to physically prepare and maintain any writing requirement that may be imposed by §§ 1.148–0T, 1.148–1T, 1.148–3T, and 1.148–8T. They do not represent an estimation of the time for making the decisions, judgments, and computations that may be necessary to satisfy the requirements of section 148(f) or to determine whether an election should be made. Estimated total annual reporting and recordkeeping burden not associated with Form 8038–T: 1,800 hours. The estimated annual burden per respondent varies from 60 minutes to 120 minutes, depending on individual circumstances, with an average of 90 minutes. Estimated number of respondents: 100. Estimated annual frequency of responses (for reporting requirements only): at most once every 5 years.

Submission to Small Business Administration

Pursuant to section 7805(f) of the Code, the rules proposed in this document will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Background

The temporary regulations (designated by a T following the section citations) in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR Part 1) to provide rules relating to arbitrage restrictions on tax-exempt bonds. The temporary regulations reflect the addition to section 148 and section 149(d) to the Internal Revenue Code by section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602), amendments made by sections 1013, 4005(d), and 5035(b) of the Techanical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100–647), and the applicable effective date provisions of sections 1311–1314 of the Tax Reform Act of 1986 (100 Stat. 2659). This document proposes to adopt the temporary regulations as final regulations. Accordingly, the text of the temporary regulations serves as the comment document for this notice of proposed rulemaking. The preamble to the temporary regulations explains the proposed and temporary rules.

For the text of the temporary regulations, see T.D. 8252 published in the Rules and Regulations protion of this issue of the **Federal Register**.

Regulatory Impact Analysis

These proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably a signed original and seven copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written request by any person who submitted comments on the proposed rules. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

These proposed regulations were drafted in the Office of Tax Legislative Counsel, Department of the Treasury. However, personnel in other offices of the Treasury Department and the Internal Revenue Service participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.61–1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 602

Reporting and recordkeeping requirements.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 89–11255 Filed 5–12–89; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Colorado Permanent Regulatory Program

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

ACTION: Proposed rule; reopening and extension of comment period and withdrawal of proposed amendments.

SUMMARY: OSMRE is announcing the receipt of additional explanatory information and revisions pertaining to a previously proposed amendment to the Colorado permanent regulatory program (hereinafter, the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Colorado has also requested that certain proposed revisions be withdrawn from consideration. The additional explanatory information and revisions, including the withdrawn revisions, pertain to the use of explosives, excess spoil, coal exploration, hydrology and geology, diversions, siltation structures and impoundments, coal mine waste, alluvial valley floors, backfilling and grading, and archaeology and cultural resources. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards and clarify ambiguities in the State's program.

This notice sets forth the times and locations that the Colorado program and proposed amendment to that program are available for public inspection, as well as the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4:00 p.m., m.d.t. May 30, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Robert H. Hagen at the address listed below.

Copies of the Colorado program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSMRE's Albuquerque Field Office.

Mr. Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, S.W., Suite 310, Albuquerque, New Mexico 87102, Telephone: (505) 766–1486.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 "L" Street, NW., Washington, DC 20240, Telephone: (202) 343–5492.

Colorado Mined Land Reclamation Division, Department of Natural Resources, 1313 Sherman Street, Room 423, Denver, CO 80203, Telephone: (303) 866–3567.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagen, Director, Albuquerque Field Office, (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program, can be found in the December 15, 1980, **Federal Register** (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.15 and 906.30.

II. Proposed Amendment

By letter dated August 23, 1988 (Administrative Record No. CO–384), Colorado submitted a proposed amendment to its permanent regulatory program pursuant to SMCRA. Colorado submitted the proposed amendment in response to letters that OSMRE sent on May 7, 1986, and June 9, 1987, in accordance with 30 CFR 732.17(c) (Administrative Records Nos. CO–282 and CO–342). OSMRE published a notice in the October 5, 1988, **Federal Register** (53 FR 39150) announcing the receipt of the proposed amendment and invited public comment on the adequacy of the proposed amendment (Administrative Record No. CO–399). The public comment period ended October 31, 1988.

During its review of the proposed amendment, OSMRE identified concerns and notified Colorado of the concerns by letter dated February 7, 1989 (Administrative Record No. CO–428). Colorado responded to OSMRE's concerns in a letter dated April 10, 1989, submitting additional explanatory information and revised amendments (Administrative Record No. CO–433 and that portion of Administrative Record No. CO–389 concerning the 24-hour storm event design justification), and requested that OSMRE withdraw certain proposed revisions from consideration in the proposed amendment. The regulations that Colorado proposes to amend or withdraw are:

Use of Explosives

Colorado proposes to amend Rules 4.08.1, 4.08.4, and 4.08.5.

Excess Spoil

Colorado proposes to amemd Rule 4.09.1 and presented explanatory information concerning Rules 4.09.2 and 4.09.4.

Coal Exploration

Colorado presented explanatory information concerning Rules 2 02.7 and 4.21.4.

Hydrology and Geology

Colorado proposes to amend Rule 4.05.8 and presented explanatory information concerning Rules 2.04.6, 2.05.6, 4.05.8, and 4.05.13. Part of Rule 2.05.6 and all of Rule 4.05.18 were withdrawn.

Diversions

Colorado proposes to amend Rules 4.05.3 and 4.05.4, and presented explanatory information concerning Rule 4.05.1.

Siltation Structures and Impoundments

Colorado proposes to amend Rules 1.04(64) and 4.05.6, and presented explanatory information concerning Rules 4.05.6 and 4.05.9.

Coal Mine Waste

Colorado proposes to amend Rule 4.09.2 and presented explanatory information concerning Rule 4.11.5. Rule 4.10.1 has been withdrawn.

Alluvial Valley Floors

Colorado presented explanatory information concerning Rule 2.06.8.

Backfilling and Grading

Colorado proposes to amend Rule 1.04(94)(a) and presented explanatory information concerning Rule 4.14.2. Rule 4.14.6 has been withdrawn.

Archaeology and Cultural Resources

Colorado presented explanatory information concering Rule 2.02.3.

III. Public Comment Procedures

OSMRE is reopening the comment period on the proposed Colorado program amendment to provide the public an opportunity to reconsider the adequacy of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSMRE is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Colorado program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Albuquerque Filed Office will not be considered in the final rulemaking or include in the Administrative Record.

List of Subjects in 30 CFR Part 906

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

Date: May 5, 1989.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 89–11495 Filed 5–12–89; 8:15 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3570–7 and KY–044]

Approval and Promulgation of Implementation Plans; Kentucky, Redistribution of Allowable Sulfur Dioxide Emissions at TVA's Paradise Steam Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to approve a redistribution of allowable sulfur dioxide emissions at the Paradise Steam Plant of the Tennessee Valley Authority (TVA). This redistribution was submitted to EPA as a State Implementation Plan (SIP) revision by the Kentucky Natural Resources and Environmental Protection Cabinet on June 29, 1987. The revision allows unit-specific sulfur dioxide emission limits of 1.2 pounds per million BTU heat input (lb/mmBTU) on Units 1 and 2 and 5.4 lb/mmBTU on Unit 3. Overall, these limits are equivalent to the 3.1 lb/mmBTU emission limit specified for each unit in the current SIP. Dispersion modeling shows that the revision will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards. This SIP revision was evaluated under the full criteria of an ordinary SIP revision, and not under the streamlined criteria allowed when a SIP revision qualifies as a "bubble" under EPA's Emissions Trading Policy Statement.

DATES: Comments must be received on or before June 14, 1989.

ADDRESSES: Comments may be mailed to Richard A. Schutt, U.S. Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Programs Branch, 345

Courtland Street, NE., Atlanta, Georgia 30365.
Kentucky Natural Resources and Environmental, Protection Cabinet, Department of Environmental Protection, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Richard A. Schutt, U.S. Environmental Protection Agency, Region IV, Air Programs Branch at the above listed address or at (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: The Paradise Steam Plant is a three-unit coal-fired facility operated by the Tennessee Valley Authority (TVA) and located in Muhlenberg County, Kentucky. Units 1 and 2 have an electric generating capacity of 704 megawatts (MW) each and are served by 600-foot (183-meter) stacks. Unit 3, with a generating capacity of 1150 MW, is served by an 800-foot (244-meter) stack. Since they were constructed prior to December 31, 1970, all three stacks were grandfathered from the stack height regulations.

Muhlenberg County is currently classified in 40 CFR Part 81 as nonattainment for the secondary National Ambient Air Quality Standards (NAAQS) for sulfur dioxide. On October 31, 1980 (45 FR 72153), EPA approved Kentucky's most recent SIP submittal for Muhlenberg County under Part D of the Clean Air Act. This SIP revision requires each unit at the Paradise Plant to meet an emission limit of 3.1 lb/mmBTU. A federally enforceable consent decree in 1979 established new limits of 0.9 lb/mmBTU for Units 1 and 2 and 5.7 lb/mmBTU for Unit 3 which are equivalent to the 3.1 lb/mmBTU emission limit specified for each unit in the Part D SIP. In 1983, the TVA constructed a coal-washing plant and installed scrubbers on Units 1 and 2 to meet these emission limits. Monitoring data for Muhlenberg County showed no exceedances of the NAAQS for 1984-1986.

Based on its experience in operating the sulfur dioxide control system at Paradise, the TVA is requesting a redistribution of the allowable sulfur dioxide emission rates for the three units. The proposed emission rates are 1.2 lb/mmBTU for Units 1 and 2 and 5.4 lb/mmBTU for Unit 3. Although the scrubbers on Units 1 and 2 are capable of meeting a standard of 0.9 lb/mmBTU, they can only do so reliably if these units burn coal with a sulfur content equivalent to 5 lb SO_2/mmBTU or less. The proposed unit-specific emission limits would result in substantial cost savings because they would enable TVA to fine-tune the washing process and produce a coal that conforms more closely to pollution control requirements. On a plantwide basis, the proposed emission limits are equivalent to the 3.1 lb/mmBTU emission limit specified for each unit in the current SIP for Paradise.

An evaluation estimating ambient sulfur dioxide concentrations resulting from the proposed emission limits and assessing the attainment of ambient sulfur dioxide air quality standards for the Paradise Steam Plant has been completed. The modeling techniques used in the initial demonstration supporting this SO_2 redistribution are, for the most part, based on modeling guidance in place at the time that the analysis was performed, i.e. the EPA "Guideline on Air Quality Models (1978)." Revisions to the modeling were required and the then current 1986 guidelines were followed. Since that time, revisions to modeling guidance have been promulgated by EPA (53 FR 392, January 6, 1988). Because the modeling analysis was under way prior to publication of the revised guidance, EPA accepts the analysis. The grandfathering of the modeling analysis is also based on a July 9, 1986, memorandum from EPA Region IV to EPA's Office of Air Quality Planning and Standards listing sources, including TVA Paradise, which should be grandfathered under the then current EPA modeling guidance. This evaluation includes an inventory of sources within 50 km of Paradise and estimates of ambient sulfur dioxide concentrations using screening techniques and coarse receptor grids to identify extreme concentrations. Fine-grid analyses and estimates of ambient background concentrations are also included. The modeling analysis was based on block averaging. For further information on this evaluation, the reader may consult a Technical Support Document which contains a more detailed discussion of the model input, the annual-average screening analysis, the short-term analysis, and the background concentrations utilized to estimate the ambient sulfur dioxide concentrations resulting from the proposed emission limits. This document is available at the EPA address given above.

The disperson models employed to estimate ambient sulfur dioxide concentrations resulting from the proposed emission limits were the long-term version of the Industrial Source Complex model (ISCLT), and the Multiple Point Source Model with Terrain Adjustments (MPTER). ISCLT was used in the annual-average screening analysis to identify sources having a potential to interact with the Paradise Steam Plant. The MPTER model was used in screening analyses for the 3-hour and 24-hour averaging times. Once the maximum concentrations were identified, more detailed fine-grid evaluations were also made using MPTER. Results were interpreted in accord with current EPA modeling practices.

The table below shows the extreme concentrations resulting from the refined multiple-source analysis. These estimates are made up of contributions from both the Paradise Steam Plant and the Gren River Steam Plant. In the short-term analysis, the Green River Steam Plant was the only source besides Paradise considered. A 25 micrograms/cubic meter background concentration was included in the extreme concentrations below.

Concentration type	Total sulfur dioxide (modeled + background) concentration (micrograms/cubic meter)	Ambient standard micrograms/cubic meter	Percent of standard
Highest Annual...	45	80	56
High 2nd High 24-Hour	238	365	65
High 2nd High 3-Hour.....	914	1300	70

The extreme concentrations demonstrate that the sulfur dioxide National Ambient Air Quality Standards in the vicinity of the Paradise Steam Plan are protected when the plant is operated at the proposed emission limits of 1.2 lb/mmBTU on Units 1 and 2 and 5.4 lb/mmBTU on Unit 3.

After a public hearing held on March 23, 1987, the Kentucky Natural Resources and Environmental Protection Cabinet adopted this redistribution pursuant to the provisions of Regulation 410 KAR 61:015, section 3. Kentucky Regulation 401 KAR 50:015, Documents incorporated by reference, incorporates 40 CFR Part 60, Method 6 entitled "Determination of sulfur dioxide emissions from stationary sources". This method is listed under 401 KAR 50:015 section 1(c)(1)(1), and is the method required for sulfur dioxide compliance determinations for Paradise Units 1-3.

Proposed Action

EPA is today proposing to approve a redistribution of allowable sulfur dioxide emissions at Tennessee Valley Authority's (TVA's) Paradise Steam

Plant. This redistribution allows unit-specific sulfur dioxide emission limits of 1.2 lb/mmBTU on Units 1 and 2 and 5.4 lb/mmBTU on Units 3. These limits are equivalent to the 3.1 lb/mmBTU emission limit specified for each unit in the current SIP for Paradise. Modeling has demonstrated that the ambient air quality standards are protected when the plant is operated at the proposed emission limits. The State authority for this revision is provided in Regulation 401 KAR 61:015, section 3.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Sulfur oxides.

Authority: 42 U.S.C. 7401–7642

Date: March 28, 1989.

Lee A. DeHihns III,

Acting Regional Administrator.

[FR Doc. 89–11584 Filed 5–12–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3570–5]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Gas Sweetening and Sulfur Recovery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval of revisions to Oklahoma Air Quality Control Regulation (OAQCR) 3.4(c)(1)(C), "Gas Sweetening and Sulfur Recovery Plants" which was submitted by the Governor on March 31, 1986. EPA has reviewed the revision and found it to be less stringent in some cases than the corresponding New Source Performance Standard (NSPS), Subpart LLL, but is nevertheless proposing approval because the State must apply the NSPS in those cases.

DATES: Comments must be received at the Region 6 office by June 14, 1989. Public comment on this submittal is requested and will be considered before taking final action.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs of the EPA Region 6, Air Programs Branch, SIP/NSR Section (address below). Copies of the administrative record, including a technical evaluation report, underlying this proposed action are available for public inspection during normal business hours at the following location:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AN), 1445 Ross Avenue, Dallas, Texas 75202.

Oklahoma State Department of Health, Air Quality Service, 1000 Northeast 10th Street, P.O. Box 53551, Oklahoma City, Oklahoma 73152.

FOR FURTHER INFORMATION CONTACT: Gregg Guthrie, Air Programs Branch, EPA Region 6, telephone (214) 655–7214 or (FTS) 255–7214.

SUPPLEMENTARY INFORMATION: Under its Federally approved State Implementation Plan (SIP), Oklahoma regulates the emission of sulfur dioxide (SO_2) from new and modified sulfur recovery plants under OAQCR 3.4(c)(1)(C), which set emission limits, monitoring/recordkeeping requirements, and performance testing requirements for such facilities. EPA initially approved these regulatory provisions, which were then part of OAQCR 16, at 41 FR 32890 (August 6, 1976), and subsequently approved a clarifying revision at 49 FR 17756 (April 25, 1984).

After EPA's approvals, Oklahoma attempted to apply the emission standards of OAQCR 3.4(c)(1)(C) in issuing a permit to Leede Oil & Gas Company for construction of the State's first deep sour gas well. The proposed facility was significantly different than the types of facilities the State had considered in adopting its emission standard, whose application would have required Leede to install a tail gas cleanup unit at an estimated cost of $3 million. As a practical matter, this incremental cost was so high that it effectively prohibited deep sour gas wells in Oklahoma.

In December of 1984, Oklahoma publicly proposed amendments to OAQCR 3.4(c), partly in response to the unforeseen problem involving deep sour gas wells and, to a lesser degree, to make "housekeeping" changes to its procedural requirements. At about the same time, EPA proposed "Standards of Performance for Onshore Natural Gas Processing: SO_2 Emission," NSPS Subpart LLL at 49 FR 2656 (January 20, 1984). On May 8, 1985, the State adopted the proposed amendments, after which EPA promulgated Subpart LLL at 50 FR 40158 (October 1,1985). On March 31, 1986, the Governor of Oklahoma submitted the State's amendments to EPA for review and approval as a SIP revision. EPA now proposes to approve the State's amendments to OACQR 3.4(c)(1)(C).

Emission Standards

As amended, Oklahoma's emission limit for natural gas processing operations is somewhat different from the corresponding Federal NSPS in Subpart LLL. Both State and Federal standards are expressed in the form of exponential equations relating the required percentage control of SO_2 emissions to the quantity in long tons per day (LT/D) of sulfur in the concentrated acid gas stream from the sweetening (amine) unit. The Federal standard, however, also uses the concentration of H_2S in the acid gas as an additional parameter and specifies two separate levels of control: one for the initial performance with fresh catalyst and one for continuous performance with used catalyst. Because of these differences, which are further explained in EPA's technical Evaluation Report, the State's regulation is more stringent than EPA's NSPS over part of its range, but the NSPS is more stringent than OAQCR 3.4(c)(1)(C)(i)(a) for the remainder.

This disparity between Oklahoma's revised regulation and NSPS will, however, have not practical effect on air quality. Both Oklahoma standards and EPA's NSPS are applied *via* preconstruction permits the State issues to new or modified sources under OAQCR 1.4.2(a)(1), which EPA approved at 48 FR 22297 (May 18, 1983). In pertinent part, that regulation requires that, in cases of conflict between a State standard and applicable Federal NSPS, the more stringent of the two standards shall apply.

Likewise, the revision's relaxation of OAQCR 3.4(c)(1)(C)(i)(a) will not interfere with maintenance of the National Ambient Air Quality Standard (NAAQS) for SO_2 in Oklahoma or contiguous states. The entire state of Oklahoma is attainment for SO_2. Prior to the revision, the standard was applied to no sources in Oklahoma and the revision does not, therefore, change the emission limits applicable to any existing source. Hence, there is no change in circumstances which might jeopardize the effectiveness of Oklahoma's Prevention of Significant Deterioration (PSD) program, which EPA approved at 48 FR 38635 (August 25, 1983).

The State's regulation limiting emissions from other types of sulfur recovery operations remains unchanged except for numbering. Former OAQCR

3.4(c)(1)(C)(i)(b) is now OAQCR 3.4(c)(1)(C)(ii).

Monitoring and Recordkeeping

As previously approved, OAQCR 3.4(c)(1)(C)(ii) listed monitoring and recordkeeping requirements for sulfur recovery facilities. Oklahoma has since replicated those requirements in an appendix to OAQCR. 5.1, which regulation EPA approved at 37 FR 10887 (May 31, 1972), and has accordingly replaced the redundant requirements in OAQCR 3.4(c)(1)(C)(ii), which it has renumbered 3.4(c)(1)(C)(iii), with a reference to requirements adopted under OAQCR 5.1.

From the State's perspective, this is only a "housekeeping" amendment, but from EPA's, it totally deletes applicable monitoring standards from the SIP inasmuch as the appendix is not federally approved. EPA nevertheless proposes to approve the deletion because all sources to which OAQCR 3.4(c)(1)(C) will apply must comply with the monitoring requirements of the NSPS in accordance with OAQCR 1.4.2(a)(1). Those NSPS monitoring requirements are more stringent than the State's former SIP standard now embodied in the unapproved appendix to Regulation 5.1.

Performance Testing

As previously approved, OAQCR 3.4(c)(1)(C)(iii) required that (1) performance testing be conducted under State approved procedures, (2) in determining such procedures, the State would consider Federal test procedures for "similar processes," and (3) all performance tests be "conducted, supervised, or approved by" a qualified person. In the revised version, which is numbered 3.4(c)(1)(C)(iv), the second and third requirements are deleted. The State considered both requirements mere surplusage, the second because it was too ambiguous to be enforced and the third because it is duplicated in OAQCR 4.1, which EPA approved at 37 FR 10887 (May 31, 1972). Although it agrees with the State's reasons for deleting these requirements, EPA points out that performance testing requirements of the NSPS, like its recordkeeping requirements, must be applied in permits Oklahoma issues in accordance with OAQCR 1.4.2(a)(1).

Proposed Action

By this notice EPA is proposing full approval of the State's revision.

Regulatory Process

Under 5 U.S.C. 605(b), the Administrator has certified that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Reporting and Recordkeeping requirements, Sulfur dioxide.

Authority: 42 U.S.C. 7401–7642.

Date: January 21, 1988

Robert E. Layton Jr.,

Regional Administrator.

[FR Doc. 89–11585 Filed 5–12–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 372

[OPTS–400030; FRL–3571–1]

Copper Phthalocyanine Pigments; Toxic Chemical Release Reporting; Community Right-to-Know; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to grant a petition to exempt Pigment Blue 15, Pigment Green 7, and Pigment Green 36 from reporting requirements under the category "copper compounds" of the list of toxic chemical under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). The proposal is based on EPA's conclusion that there is no evidence that the three chemicals cause or can reasonably be anticipated to cause adverse human health or evironmental effects as specified under section 313(d). EPA is also seeking public comment on how to approach a number of issues pertaining to the chemical categories listed under section 313.

DATES: Comments must be received on or before July 14, 1989.

ADDRESSES: Written comments should be submitted in triplicate to: OTS Docket Clerk, TSCA Public Docket Office, Environmental Protection Agency, Mail Stop TS–793, Rm. NE–G004, 401 M St., SW., Washington, DC 20460, Attention: Docket Control Number OPTS–400030.

FOR FURTHER INFORMATION CONTACT: Robert Israel, Acting Petition Coordinator, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop OS–120, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202, In Washington, DC and Alaska: 202–479–2449.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The response to this petition is issued under section 313(e)(1) of Title III of SARA. Title III of SARA is also referred to as the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986.

B. Background

Section 313 of SARA Title III requires certain facilities using toxic chemicals to report annually their environmental releases of such chemicals. Section 313 establishes an initial list of toxic chemicals that is composed of more than 300 chemicals and 20 chemical categories. Any person may petition EPA to add chemicals to or delete chemicals from the list.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. EPA must respond to petitions within 180 days either by initiating a rulemaing or by publishing an explanation of why the petition has been denied.

In addition to responding to petitions, EPA has authority under section 313(d) to modify the list of chemicals to further the objectives of section 313. EPA has therefore begun to evaluate candidates for addition to the list based on data available to EPA from its various chemical review and assessment activities. EPA anticipates that this review will result in the initiation of a rulemaking proceeding during calendar year 1989.

II. Description of Petition

On June 1, 1988, EPA received a petition from The Dry Color Manufacturers' Association (DCMA) to exempt three phthalocyanine pigments from the reporting requirements under the list of toxic chemicals category "copper compounds." Pigment Blue 15 (PB–15), Pigment Green 7 (PG–7), and Pigment Green 36 (PG–36) are phthalocyanine pigments covalently bound to copper. Since the pigments are copper-containing compounds, they are reportable under section 313. The statutory deadline for EPA's response is March 26, 1989, which includes a 4-month suspension at the request of DCMA.

III. Summary of EPA's Review of Copper Phthalocyanine Pigments

A. Toxicity Evaluation

EPA's health and environmental review of the three copper pigments included the assessment of absorption/metabolism, acute toxicity, chronic toxicity, neurotoxicity, carcinogenicity, mutagenicity, developmental/reproductive system toxicity, and ecotoxicity. All readily available data including those provided in the petition, studies retrieved from literature searches, and documents prepared by EPA were considered in the health and environmental assessment.

1. *Acute toxicity.* Based on test data, all three pigments were determined to be at most, slightly acutely toxic by the oral route.

2. *Chronic toxicity.* Data from 13-week oral studies of PB–15 and PG–7 in rates and mice suggest a very low potential for chronic toxicity for the three pigments. No adverse treatment-related effects were observed except for decreased body weight gain in rats exposed to PG–7.

The National Toxicology Program (NTP) also conducted 13-week oral studies of PB–15 and PG–7 in rats and mice at dose levels similar to those mentioned above. The results showed no signs of compound-related toxicity; however, there were statistically significant elevations of copper in the liver and kidneys of mice exposed to PB–15 and in the liver and kidneys of mice exposed to PG–7.

The systemic chronic health concerns for the phthalocyanine pigments appear to be dependent on the amount of residual free copper impurities present in the pigments. A 20-day rat study in which 25.4 mg/kg/day of copper was administered by gavage showed liver and kidney toxicity.

3. *Carcinogenicity.* There is insufficient evidence to determine the human carcinogenic potential of the phthalocyanine pigments.

4. *Developmental/reproductive system toxicity.* There is insufficient information with which to evaluate adequately the effects of the phthalocyanine pigments on reproduction or development.

5. *Neurotoxicity.* There is insufficient information to evaluate the potential neurotoxicity of the phthalocyanine pigments.

6. *Mutagenicity.* The date available do not adequately characterize the intrinsic mutagenic potential of the phthalocyanine pigments, nor do they address the issue of chemical interaction of these pigments in the mammalian gonad. Therefore, no conclusions can be drawn about the mutagenic potential of these substances.

7. *Environmental effects.* The three phthalocyanine pigments are not expected to be toxic to aquatic organisms at saturation even under long-term exposures and are not expected to bioconcentrate because of their extremely high log P values (>10), low water solubilities, high molecular weights, large cross sectional diameters, and high molecular volumes. Mammalian and avian acute and chronic toxicities are expected to be low.

B. Use, Release, and Exposure

1. *Production and use.* EPA estimates that there are 6 major producers, 16 processors of the crude pigment to pigment grade, and 21 importers of PB–15 at a total of 45 sites. There may be 1 producer, approximately 14 processors, and 12 importers of PG–7 at a total of 26 sites. There are approximately 5 processors and 4 importers of PG–36 at a total of 9 sites.

2. *Exposure and release.* There were no concerns resulting from the health and environmental review of the three copper pigments, and therefore specific release and exposure estimates were not made. However, manufacture of these pigments does result in the generation of other copper-containing wastes. It is anticipated the deletion of these three copper pigments from the copper compounds category will not necessarily relieve manufacturers from reporting requirements. Each facility is required to consider all copper-containing compounds in their threshold determination for reporting under section 313. For example, facilities that manufacture PB–15, PG–7, and PG–36 are processors of copper-containing chemicals used as precursors in the manufacture of the phthalocyanine pigments. Therefore, EPA has estimated exposures for copper-containing wastes resulting from the manufacture of phthalocyanine pigments. A worst-case exposure scenario was based on a company that manufactures, conditions, and processes at one site.

Human exposure via drinking water to copper released from manufacturing sites was estimated using site specific surface water flow rates for a known manufacturing site. Exposure of an individual drawing water 10 km downstream was estimated to be 7.3 ug/yr.

Human exposure to copper via groundwater contamination by leaching of landfilled pigment manufacturing wastes is estimated to be as high as 200 mg/yr, which results from copper concentration of 3 mg/1 in groundwater for the first 10 years. A 70–year long-term average groundwater concentration of approximately 0.4 mg/L of copper can be estimated for use in lifetime exposure estimates.

A conservative estimate of the ambient air concentration was estimated to be less than 1 ug/m^3, 100 meters from the point source.

Conditioners and users will be releasing copper-containing wastes; however similar modeling studies, as those mentioned above, show that human exposure will be significantly lower than those exposures estimated for the manufacturing releases.

C. Summary of the Technical Review

EPA's health and environmental review showed that the three phthalocyanine pigments are not expected to cause acute, chronic, or environmental toxicity. The residual copper level, present as an impurity in the pigments, is not toxicologically significant.

IV. Explanation for Proposed Action to Delete

EPA is granting the petition submitted by the DCMA by proposing to delete Pigment Blue 15, Pigment Green 7, and Pigment Green 36 from the copper compounds category on the section 313 list of toxic chemicals. The decision to grant the petition is based on EPA's toxicity evaluation of these three copper compounds. EPA believes that there is no evidence which suggests that these three phthalocyanine pigments are known to cause or can reasonably be anticipated to cause health or environmental effects as set forth in section 313(d)(2).

However, this petition has raised a number of important questions about how EPA should deal with individual members of listed chemical categories. With such a large number of chemicals included within each category, it is conceivable that individual chemical exclusions from the listed categories could become larger than the toxic chemical list itself. EPA is seeking public comment on future petitions of this type as well as developing an approach to better define the categories. EPA may choose to develop an overall category policy before any final action is taken to delete these three copper compounds from the section 313 list of toxic chemicals.

EPA will continue to consider petitions to delete individual chemicals within one of the listed section 313 chemical categories. Among such petitions, EPA will give a higher priority to those involving individual chemicals

for which the toxicity assessment under section 313 (d)(2) is unambiguous (such as is the case for the three copper pigments which are the subject of this petition). However, until EPA has developed a strategy to deal with the category issues discussed below, EPA may consider deferring responses to other petitions to delete individual chemicals in a listed category for which the toxicity assessment is not clear cut.

V. Request for Public Comment

Although EPA has determined that Pigment Blue 15, Pigment Green 7, and Pigment Green 36 do not meet the criteria for listing under section 313(d)(2), the petition to delete these chemicals raises a number of difficult questions as to how EPA should deal with the listing or deleting of "nontoxic" members of a chemical category from the section 313 list. The section 313 list of toxic chemicals includes 20 different listings of chemical categories under 40 CFR 372.65(c). Each one of these categories may contain hundreds to thousands of individual chemicals. For example, EPA has determined that the copper compounds category, which includes the above phthalocyanine pigments, consists of approximately 3,700 different individual chemicals.

EPA recognizes, as this notice indicates, that perhaps not all individual chemicals within each of the 20 listed categories meet the toxicity criteria of section 313(d)(2) and that this proposal to delete the three phthalocyanine pigments could result in numerous other petitions to delete chemicals from within any one of the 20 listed categories.

EPA is concerned with regard to the resources needed to conduct the toxicity, exposure, and site-specific risk analyses for each one of the innumerable chemicals for which a petition to delete may be submitted, and EPA believes that such resource commitments may severely affect EPA's ability to implement other important components of the section 313 community-right-to-know program. For example, resources that are utilized to evaluate the thousands of individual members of the 20 listed categories may detract from EPA's implementation of other statutory obligations under section 313. This is particularly troublesome given that the analyses that would need to be done as to whether other chemical category members meet any of the section 313(d)(2) criteria may be more difficult and less clear-cut than the analysis that has been conducted for the three copper pigments at issue here.

Thus, EPA is considering the development of a strategy to evaluate chemical categories that are listed under section 313(c), with the following goals in mind: (1) To insure that the section 313 list of "toxic chemicals" is composed of chemicals that meet the toxicity criteria of section 313(d)(2); and (2) to allocate resources within the section 313 program such that all of EPA's statutory obligations, such as the development of a publicly-accessible computer data base, are met.

EPA requests comment on approaches for addressing the issues raised by this petition with regard to chemical categories under section 313. EPA is presenting the following four options as possibilities: EPA is considering whether to keep the listed categories intact and make no individual assessments on whether certain members within any one of the listed categories should be deleted from the section 313 list. Under this approach, EPA would not conduct independent analyses of each listed category to distinguish between "toxic" and "nontoxic" members within the category. EPA would respond to petitions to delete named chemicals from a category, but would give such petitions a secondary priority to those which pertain to individually-listed chemicals.

A second approach would be for EPA to subcategorize the listed categories by assessing the chemical structure of the chemicals within each category. Such an effort would not involve an independent assessment of each chemical within a category but would consist of a broad attempt to segregate the toxic chemicals from the "nontoxic" chemicals in the listed categories. For example, under this approach EPA may evaluate the bioavailability of the toxic metals among chemicals within a category by examining their chemical bonding, i.e., ionic vs. covalent. EPA would propose to delete those chemicals from the category listing which do not meet a "bioavailability" standard. This approach would assist in the goal of insuring that the section 313 list is composed of "toxic" chemicals but may involve the expenditure of considerably more resources than the first approach outlined above.

As a third alternative, EPA could attempt to independently evaluate the many thousands of chemicals within the listed categories to determine if the individual chemicals meet the toxicity criteria of section 313(d)(2). EPA, however, is not actively considering this option because of the innumerable chemicals for which individual assessments would have to be made.

In addition, the section 313 reporting rule allows facilities to aggregate and report on the total weight of the parent metal released, rather than submitting separate reports for all the individual metal compounds (40 CFR 372.25(h)). Thus, facilities' reporting burdens may be significantly reduced. However, if EPA conducted an extensive analysis of each chemical within all the listed categories and deleted those chemicals which failed to meet the section 313(d) criteria, EPA may decide to modify the reporting requirement such that separate reports would have to be filed for each of the remaining chemicals in the category listings. An EPA decision to require such individual reporting for chemicals within a category is supported by the legislative history of section 313 (Joint Explanatory Statement of The Committee of Conference at 296). This approach, which would effectively transform category listings into separate listings for each chemical within a category that meets the toxicity criteria, would increase the reporting burden for facilities and increase EPA's costs of maintaining the section 313 data base.

Finally, in order to ensure that the public is aware of the total burden on the environment of all chemicals defined by each category, EPA may consider the set of chemicals defined by each section 313 category as inseparable units for the purposes of making modifications to the list of toxic chemicals. Petitions for deletions to the list would only be considered for an entire category or a specifically listed section 313 chemical.

EPA requests comments on these approaches and other methods for addressing the listing of categories under section 313. All comments must be submitted on or before July 14, 1989.

VI. Public Record

The record supporting this decision is contained in docket number OPTS-400030. All documents, including the index of the docket, are available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Room NE-G004, 401 M St., SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: April 28, 1989.

Victor J. Kimm,

Acting Assistant Administrator, Office of Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 372 be amended as follows:

PART 372—[AMENDED]

1. The authority citation for Part 372 would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§372.65 [Amended]

2. In § 372.65(c) by adding the following language to the copper compounds listing "(except for C.I. Pigment Blue 15 (PB–15), C.I. Pigment Green 7 (PG–7), and C.I. Pigment Green 36 (PG–36) and except for the entire CAS NO. entry for 147–14–8, 1328–53–6, and 14302–13–7)."

[FR Doc. 89–11586 Filed 5–12–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 25, 80, and 87

[GEN Docket No. 89–103; FCC 89–125]

Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This Notice of Proposed Rule Making is the first in a series of rule making proceedings implementing the Final Acts of the 1987 World Administrative Radio Conference for Mobile Services (1987 Mobile WARC) into the Commission's Rules. This proceeding addresses those revisions of the International Radio Regulations that become effective on October 3, 1989. It proposes to amend the Table of Frequency Allocations (§ 2.106), the Radiodetermination Satellite Service (RDSS), and certain maritime mobile and aeronautical mobile service rules. The international aspects of the Mobile Satellite Service (MSS) is discussed here but the domestic MSS issue is deferred to Gen. Docket No. 84–1234 which is currently pending further reconsideration before the Commission.

DATES: Comments must be received on or before June 5, 1989, and reply comments on or before June 20, 1989.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathryn S. Hosford, Special Services Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554; or telephone (202) 632–7197.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, GEN Docket No. 89–103, adopted April 26, 1989, and released May 5, 1989. The complete text of the Notice of Proposed Rule Making, including Appendices, is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The full text also may be purchased from the Commission's copy contractor: International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037; telephone 202–857–3800.

List of Subjects

47 CFR Part 2

Frequency allocations, Radio, Treaties.

47 CFR Part 25

Radio, Satellite radio communications, Satellites.

47 CFR Part 80

Coast stations, Communications equipment, Marine safety, Radio, Ship stations, Telegraph, Telephone.

47 CFR Part 87

Aeronautical stations, Air transportation, Communications equipment, General aviation, Radio.

Summary of Notice of Proposed Rule Making

I. Introduction

1. The purpose of this proceeding is to implement the Final Acts of the 1987 World Administrative Radio Conference for Mobile Services (1987 Mobile WARC) into the Commission's Rules. The 1987 Mobile WARC was broad in scope, covering two-thirds of the International Radio Regulations reserved exclusively to the mobile services. It revised many portions of the international frequency allocations as well as the technical regulations regarding the mobile services, mobile satellite services (MSS), radionavigation, and radiodetermination satellite services (RDSS). The revisions are scheduled to come into force on two different dates, October 3, 1989, and July 1, 1991.

2. This proceeding proposes to modify Parts 2, 25, 80, and 87 to reflect the revisions of the Radio Regulations that become effective on October 3, 1989. It also includes changes to the Radio Regulations from earlier conferences, particularly the 1983 World Administrative Radio Conference for Mobile Services (1983 Mobile WARC), that have not been implemented in the Commission's Rules to date.[1] The 1987 Mobile WARC revisions scheduled to come into effect on July 1, 1991, will be treated in separate rule making proceedings.

II. Background

3. Actions taken by the 1967 and 1974 Maritime Conferences paved the way for introducing modern telecommunication technology into the maritime services. By the time of the 1979 World Administrative Radio Conference (1979 WARC) of the International Telecommunications Union (ITU), further revisions to the Radio Regulations were needed to keep up with the requirements of the mobile services. The 1979 WARC, however, did not have the time or resources to cope with the requirements of the mobile services and deferred action to later specialized conference, pursuant to its Resolution No. 202. The first of these conferences, the 1983 Mobile WARC held in Geneva from February 28 to March 18, 1983, dealt primarily with distress and safety matters; specifically, the Global Maritime Distress and Safety System (GMDSS).[2] The next conference, the 1987 Mobile WARC held in Geneva from September 14 to October 17, 1987, covered a much broader range of mobile telecommunications matters, including provisions for implementing the GMDSS. The purpose of the 1987 Mobile WARC was to review and revise the Radio Regulations concerning the mobile services, the mobile satellite services, and the radionavigation and radiodetermination satellite services.

4. In preparation for the 1987 Mobile WARC, the Commission instituted a proceeding in 1984 to obtain public comments and recommendations regarding the proposals that the United States (U.S.) would make to the conference.[3] As part of the proceeding, a Federal Advisory Committee was established to serve as a focal point for developing a comprehensive recommendation for the private sector.[4]

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[1] Generally, the revisions of the 1987 Mobile WARC superseded those changes called for by the 1983 Mobile WARC. However, a few changes remaining from the 1983 Mobile WARC are still relevant and those are included herein.

[2] The GMDSS will replace the present maritime distress and safety system which relies on ship-to-ship distress alerting using manual Morse code. The GMDSS will rely primarily on ship-to-shore distress alerting using satellites and high frequency (HF) terrestrial systems employing digital selective calling (DSC) techniques. This system is expected to be phased in from 1992 to 1999.

[3] See Report and Order in General Docket No. 84–607, 2 FCC Rcd 821 (1987).

[4] See Memorandum Opinion and Order in General Docket No. 84–607, FCC 85–88, 50 FR 14451 (1985), adopted February 22, 1985, released March 29, 1985.

At the same time, the National Telecommunications and Information Administration (NTIA), which has responsibility for administering federal government use of the spectrum, developed a similar set of proposals through the auspices of the Interdepartment Radio Advisory Committee (IRAC). The Department of State used both recommended sets of proposals to develop the formal U.S. proposals that were submitted to the ITU for consideration at the 1987 Mobile WARC.

5. The U.S. had four main priorities at the 1987 Mobile WARC:

(1) Implementing the GMDSS system; (2) allocating sufficient frequency spectrum worldwide to ensure the economic viability of MSS; (3) allocating sufficient spectrum to permit establishment of the new RDSS; and (4) rearranging the high frequency (HF) maritime spectrum to meet our national needs.

6. Most of the U.S. objectives were attained either in whole or in part. In the areas of mobile satellite allocations and radio operator requirements, however, the U.S. had serious concerns about the actions taken. Consequently, the delegation made protocol statements that said the U.S. would not accept certain decisions of the conference. Taking these reservations enables the U.S. to enact domestic provisions different from the international provisions.

7. The Final Acts of the 1987 Mobile WARC provided that the revisions enter into force in two stages. Those changes that pertain to the HF maritime mobile bands (4000–27500 kHz) and the GMDSS, become effective on July 1, 1991. The other allocations, including those pertaining to RDSS and MSS, and general requirements regarding the maritime and aviation services enter into force on October 3, 1989. Those revisions, which become effective on the earlier date, are the subject of this rule making proceeding. The HF band and GMDSS matters, which become effective in 1991, will be addressed in subsequent rule making proceedings.[5]

III. Discussion

8. In reviewing the Final Acts with reference to the Commission's rules, the following issues are relevant:

(a) What Changes should be made to § 2.106, Table of Frequency Allocations (47 CFR 2.106)?

(b) What provisions should be adopted for the RDSS?

(c) How was the MSS affected?

(d) What changes to the maritime mobile and aviation services are necessary at this time?

9. *Table of Frequency Allocations.* Generally, the revisions to the international frequency allocations in the Radio Regulations were in agreement with U.S. proposals[6] Except for modifications for RDSS (1610–1626.5 MHz and 2483.5–2500 HMz) and MSS (1530–1559 MHz and 1626.5–1660.5 MHz) both of which will be discussed subsequently, most of the revisions address the terrestrial radio services. In Appendix B, is a summary of international footnotes affected by the 1987 Mobile WARC and their status relative to the proposed revision of the Table of Frequency Allocations contained in Appendix C.[7] A discussion of the key allocation matters follows.

10. The allocation changes involving radionavigation and radiobeacon systems adopted at the 1987 Mobile WARC were in accord with U.S. proposals. At 70–90 kHz and 110–130 kHz, we obtained an allocation for pulsed radionavigation system, albeit on a secondary basis (pursuant to modification of footnote 451). At 415–495 kHz, although the aeronautical radionavigation service (essentially radiobeacons) also are allocated on a secondary basis in Region 2, such beacons were accorded primary status in Cuba the U.S., and Mexico for the 415–435 kHz band (footnote 469A). We propose to reflect these changes in the Table of Frequency Allocations.

11. A number of regulations affecting the radiodetermination service in the 2900–3300 MHz, 5470–5650 MHz, and 9200–9500 MHz bands wered also adopted at the 1987 Mobile WARC. The new regulations, in accordance with U.S. proposals: Confined the shipborne interrogator transponder (SIT) system to the 2930–2950 MHz band (footnote 772); removed restrictions on ship radars in the 2900–2920 MHz band (footnote 774 deleted) but retained them in the 9300–9320 MHz band until the year 2001 (footnote 825A); required that responses from radar transponders in 2900–3100 MHz and 9300–9500 MHz bands not be confused with the responses from radar beacons and not cause interference to ship or aeronautical radars (footnote 775A); removed radar beacons and shipborne radars from the 3100–3266 MHz band (footnote 776 deleted); and permitted search and rescue transponders (SARTs) in the 9200–9500 MHz band (footnote 824A). These changes are reflected in the proposed revisions of the Table of Frequency Allocations.

12. On the matter of aeronautical public correspondence, the 1987 Mobile WARC allocated 2 megahertz (1593–1594 MHz and 1625.5–1626.5 MHz, secondarily in the U.S.) for terrestrial public correspondence with aircraft as an intial allocation for pre-operational and experimental purposes. The U.S. position was that aeronautical public correspondence needs should be met through the MSS allocation. After intensive negotiations, the U.S. reluctantly agreed to the 2 megahertz secondary allocation but stated that the U.S. had no intention of implementing these bands for aeronautical public correspondence. We continue to believe that aeronautical public correspondence communications should be met through the MSS or by the proposed U.S. allocation at 900 MHz.[8] Therefore, no change to the Commission's Rules to accommodate this type of communication at the 1.5/1.6 GHz bands is being proposed herein.

13. *Radiodetermination Satellite Service (RDSS).* Sufficient spectrum was allocated by the 1987 Mobile WARC to permit the RDSS to begin operating initially in North America, while ensuring for most areas of the world an international status for RDSS in the Radio Regulations. Thus, the U.S. was successful in establishing international recognition and protection to enable this service to expand globally. After extensive debate and informal coordination, the allocations that finally emerged were the same as those specified in the U.S. domestic table at 1610–1626.5 and 2483.5–2500 MHz. Thus, we propose no domestic change to the Table of Frequency Allocations for the 1.6 and 2.4 GHz bands. The RDSS feeder links, however, currently located in the U.S. at 5117.5183 MHz were allocated

[5] Because of the magnitude of the revisions to the Radio Regulations, three rule making proceedings are planned to incorporate the changes into the Commission's Rules: (1) The instant proceeding containing those provisions that enter into force in 1989; (2) a second proceeding incorporating the HF band (4000–27500 kHz) revisions that become effective in 1991; and (3) a final Docket implementing the GMDSS in the maritime service. See Public Notice, 3 FCC Rcd 6780 (1988) (hereafter cited as Implementation of the 1987 Mobile WARC).

[6] The notable exception was the revisions to the 1530–1559 MHz and the 1626.5–1660.5 MHz bands where the U.S. took a reservation. See Appendix A and separate discussion regarding the MSS.

[7] Because revisions to the 4000–27500 kHz band (HF band) are not effective until July 1, 1991, changes to the 4000–27500 kHz portion of the Table of Frequency Allocations are not included in Appendix C but will be addressed in a subsequent proceeding. See Implementation of the 1987 Mobile WARC, supra.

[8] See Notice of Proposed Rule Making in General Docket No. 86–96, 3 FCC Rcd 2436 (1988).

internationally at 5150–5216 MHz. Hence, we propose to re-allocate the feeder links (footnote US307) to the 5150–5216 MHz band in accordance with the Radio Regulations (footnote 797A). We expect this change in the feeder links allocation to have only minimal impact because there is only one licensee at present and its system is not due to become operational until 1992.

14. *Mobile Satellite Service (MSS).* Because there is a strong interest in the U.S. for providing domestic mobile satellite communications, particularly for land mobile purposes, the U.S. sought additional frequency spectrum for the MSS. The goal was to provide for introduction of MSS systems worldwide and to ensure international protection from interference for domestic systems. The U.S. proposed to reallocate spectrum in the 1.5 and 1.6 GHz bands (L-band) for MSS from the maritime mobile satelite service (MMSS) and the aeronautical mobile satellite (route) service (AMSS(R)). Simply put, we proposed to re-allocate 57.5 megahertz of spectrum for the MSS in the 1530–1559 MHz (downlink) and 1631.5–1660 MHz (uplink) bands. Further, the allocations would stipulate that priority access for safety and distress communications be given to the MMSS in the 1530–1544 MHz and 1631.5–1645.5 bands, and the AMSS(R) in the 1545–1559 MHz and 1646.5–1660 MHz bands.

15. The 1987 Mobile WARC, however, did not allocate spectrum to a generic MSS service as we proposed. Instead, spectrum in the 1530–1559 MHz and 1626.5–1660.5 MHz bands was re-allocated to be shared both primarily and secondarily among the land, aeronautical, and maritime mobile satellite services. The international allocation adopted at the 1987 Mobile WARC is summarized as follows: 6 megahertz were allocated to the land mobile satellite service (LMSS) on a shared co-primary basis with the MMSS at 1530–1533 MHz and 1631.5–1634.5 MHz; 27 megahertz were allocated to the LMSS on a secondary basis to MMSS for non-speech, low-bit rate data systems at 1533–1544 MHz, 1626.5–1631.5, and 1634.5–1645.5 MHz; 2 megahertz (no change) continued to be allocated to the general MSS for distress and safety communications at 1544–1545 MHz and 1645.5–1646.5 MHz; 20 megahertz (decreased from 28 megahertz) continued to be allocated to the AMSS(R) at 1545–1555 MHz and 1646.5–1656.5 MHz and may be authorized by administrations for public correspondence with aircraft earth stations; and 8 megahertz was re-allocated from the AMSS(R) to the LMSS on a primary basis at 1555–1559 MHz and 1656.5–1600.5 MHz and may be authorized by administrations for aircraft and ship earth stations to communicate with space stations in the LMSS.

16. Thus, the U.S. was partially successful in establishing additional spectrum for sharing between the mobile satellite services generally. The allocations, however, are not available for all three services in as general a nature as we had proposed. Only 8 megahertz (1555–1559 MHz and 1656.5–1660.5 MHz) may be authorized for all three mobile satellite services (i.e., shared among the land, aeronautical, and maritime mobile satellite services). An additional 33 megahertz (1530–1544 MHz and 1626.5–1645.5 MHz) was allocated for LMSS both co-primarily and secondarily with the MMSS. Because the allocations were less than sought, the U.S. took a formal reservation to use the L-band spectrum in the way most appropriate to satisfy its particular MSS requirements while recognizing the priority of AMSS(R) and MMSS safety communications.

17. The Commission's current Rules provide for the L-band to be shared between the MSS and AMSS(R) as follows: 9 megahertz are allocated for MSS on a secondary basis to AMSS(R) at 1545–1549.5 MHz and 1646.5–1651 MHz; and 18 megahertz are allocated to MSS on a co-primary basis with AMSS(R) for the 1549.5–1558.5 MHz and 1651–1660 MHz bands pursuant to footnote US308 which stipulates that AMSS(R) requirements that cannot be satisfied in the previous primary AMSS(R) bands shall have priority access with real time preemptive capability for communications in the MSS.

18. Although the domestic allocation differs from that adopted by the 1987 Mobile WARC, the U.S. maintained its flexibility with regard to the L-band spectrum by its reservation on this matter. The Commission's decision concerning the reallocation of the L-band spectrum shared between the MSS and AMSS(R) is currently pending further reconsideration.[9] In addition, the Commission has received a petition requesting U.S. implementation of the LMSS allocations in the MMSS spectrum.[10] These matters concerning the L-band spectrum will be addressed in separate proceedings. Therefore, we propose only to reflect the international changes to the Table of Frequency Allocations (columns 1–3) at this time. No changes to the MSS domestic allocations in the Table of Frequency Allocation (columns 4–7) are proposed herein. We wish to note, however, that through the U.S. protocol statement the Commission has the flexibility to use this spectrum in the manner appropriate to its particular needs, that is, to maintain or modify the U.S. allocation in accordance with our domestic satellite radio communications requirements.

19. *Maritime Mobile and Aviation Services.* All of the technical and operational revisions to the Radio Regulations need not be reflected in the Commission's Rules. Several revisions were merely editorial in nature. Others were not relevant to domestic regulations or are unnecessary due to existing equipment design. Some revisions, such as those to accommodate the GMDSS, are premature with respect to domestic implementation plans and are best addressed in separate proceedings at a later date.[11] A few provisions affecting the maritime mobile and aviation services that become effective on October 3, 1989, are discussed here.

20. In anticipation of implementation of the GMDSS, the 1987 Mobile WARC adopted more stringent frequency tolerances for maritime transmitters to improve the operational reliability of the automated digital communication systems at an early stage. Therefore, some of the frequency tolerances applicable to transmitters in the maritime services, contained in § 80.209 (47 CFR 80.209), need to be revised. For narrow-band direct-printing (NBDP) and data station transmitters in the bands 100–27500 kHz, a tolerance of 10 Hz was specified in the Radio Regulations for all coast and ship station transmitters installed after January 1, 1992. Previously, the tolerance was 15 Hz for coast station and 20 Hz for ship station transmitters. Therefore, we propose to require all coast and ship stations in the band 100–27500 kHz to have a 10 Hz frequency tolerance for any NBDP and data station transmitters installed after January 1, 1992. Similarly, for digital selective calling (DSC), the 1987 Mobile WARC adopted a frequency tolerance of 10 Hz for all coast and ship station transmitters installed after January 1,

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[9] See Report and Order in General Docket Nos. 84–1231, 84–1233, and 84–1234, 2 FCC Rcd 1825 (1986); and Memorandum Opinion and Order in General Docket Nos. 84–1231, 84–1233, and 84–1234, 2 FCC Rcd 6830 (1987).

[10] See Petition for Rule Making, RM–6459, filed by Geostar Messaging Corporation, June 1998, requesting the Commission to amend the Table of Frequency Allocations (46 CFR 2.106) and make other rule provisions for a digital LMSS.

[11] See Implementation of the 1987 Mobile WARC, supra.

1992. Current Commission Rules, require DSC coast station transmitters to have a tolerance of 10 Hz after January 1, 1990, but DSC ship station transmitters are not required to comply until January 1, 1995. Thus, we propose leaving the January 1, 1990, date for coast stations but changing the ship station date from January 1, 1995, to January 1, 1992.

21. Similarly, the Radio Regulations specify more stringent emission limits for single-sideband radiotelephony transmitters operating in the bands between 1605 and 27500 kHz in Region 2 (Region 2 includes the U.S.). The new emission limit is 28 decibels (dB) below the mean power (i.e., 31 dB below the peak envelope power) on frequencies removed from the assigned frequency by more than 50 percent and up to 150 percent of the authorized bandwidth. The Commission's rules in § 80.211 (47 CFR 80.211), however, only requires 25 dB under the same conditions. Thus, we are proposing to change the Commission's rules to require emissions to be attenuated 28 dB relative to the mean power to comply with the requirements of the Radio Regulations. To minimize any possible burden, however, we are proposing that only transmitters installed after February 1, 1992, meet this requirement. Because the new standards are only slightly more stringent than the present limitations, existing installations would continue to be acceptable. A review of our type acceptance data indicates that most equipment being produced today complies with the new specifications. The proposed change, however, will ensure that future equipment meets or exceeds international standards.

22. Several other changes are also proposed to incorporate various operational procedures adopted by the 1987 Mobile WARC or to update and clarify existing rules. To reflect the new frequencies adopted by 1987 Mobile WARC below 4 MHz (455.5, 458.5, 2177, and 2189.5 kHz for DSC and 2191 kHz for radiotelephony calling), we propose amending §§ 80.359 and 80.369 (47 CFR 80.359 and 80.369), respectively.[12] We further propose to replace the details regarding the NBDP technical and operating requirements contained in §§ 80.142 and 80.219 (47 CFR 80.142 and 80.219) with references to the appropriate CCIR recommendations that contain the relevant information. Section 80.379 (47 CFR 80.379) is proposed to be modified to clarify that aircraft may use frequency 156.800 MHz (channel 16) at any altitude for VHF distress and safety purposes and, in accordance with current Commission provisions, may continue to use it for general calling purposes below 1,000 feet. Similarly, § 87.187 (47 CFR 87.187) would also be amended to clarify the permitted use by aircraft of the maritime distress frequency 156.800 MHz. We propose to amend § 87.187(o) by adding a reference to § 87.303(d) to focus attention that the band 1530–1535 MHz will be re-allocated to the MMSS on a primary basis effective January 1, 1990.[13] We also propose to editorially amend § 87.187(x) to bring it into conformity with the definitions of stations in the terrestrial and satellite radio services.

IV. Miscellaneous

23. New definitions are proposed to be consistent with those adopted by the 1987 Mobile WARC for aeronautical route (R) and off-route (OR) services, aeronautical mobile satellite (R) and (OR) services, land earth station, base earth stations, and land mobile earth station. We also propose to reflect the revision of the RDSS definition by adding the sentence "This service may also include feeder links necessary for its own operation."

24. The revision of Articles 55 and 56 of the Radio Regulations concerning radio operators, radio equipment maintainers, and their certification, was one of the most contentious issues at the 1987 Mobile WARC. In our view, mandatory requirements for full-time radio equipment maintainers to be on board vessels were adopted unnecessarily by the conference. The issue of providing maintenance personnel on board ships was the single most controversial issue between the developing and developed countries. Ultimately, the issue could not be resolved and the U.S. was joined by 22 other countries in a reservation (with 2 other countries submitting separate reservations, for a total of 24) against the new maintenance provisions in Articles 55 and 56. Because these 24 countries represent much of the world's shipping fleet, the weight of the reservation is significant. Under the reservation, the U.S. maintains the flexibility with regard to the GMDSS requirements. No changes to the Commission's Rules are suggested at this time. This matter will be addressed in the future GMDSS proceeding, as necessary.[14]

V. Regulatory Flexibility Act Analysis

25. In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. For the most part, the changes proposed herein merely reflect an update of international requirements that comport with existing U.S. requirements. In those instances where more stringent frequency tolerances are specified for maritime transmitters, we propose an effective date of sufficient length to minimize any possible burden to equipment manufacturers or users. Likewise, where new emission limits are specified, we also propose to minimize the impact by permitting the continuation of existing equipment currently in use. The proposed changes will ensure that future equipment meet or exceed the international standards without causing a significant economic impact on any entity.

VI. Paperwork Reduction Act Statement

26. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public.

VII. Procedural Matters

27. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that ex parte presentations are permitted except during the Sunshine Agenda period. See generally 47 CFR 1.1206(a). The Sunshine Agenda period is the period of time which commences with the release of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. 47 CFR 1.1202(f). During the Sunshine Agenda period, no

[12] New frequencies and requirements for the maritime mobile service operating in the 4000–27500 kHz bands are not effective until July 1, 1991. They will be addressed in a subsequent proceeding. See Implementation of the 1987 Mobile WARC, supra.

[13] Aeronautical telemetry users in the band may continue their operations on a secondary non-interference basis until mobile satellite systems are implemented but should be aware that they may have to relocate at some future date. We are not proposing to revise the U.S. Table of Frequency Allocations with respect to 1530–1535 MHz band at this time.

[14] *See* Implementation of the 1987 Mobile WARC, *supra.*

presentations, ex parte or otherwise, are permitted unless specifically requested by the Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. 47 CFR 1.1203.

28. In general, an ex parte presentation is any presentation directed to the merits or outcome of the proceeding made to decision-making personnel which (1) if written, is not served on the parties to the proceeding, or (2) if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. 47 CFR 1.1202(b). Any person who submits a written ex parte presentation must provide on the same day it is submitted a copy of same to the Commission's secretary for inclusion in the public record. Any person who makes an oral ex parte presentation that presents data or arguments not already reflected in that person's previously-filed written comments, memoranda, or filings in the proceeding must provide on the day of the oral presentation a written memorandum to the Secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments. Each ex parte presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. 47 CFR 1.1206.

29. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r). Pursauant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 5, 1989 and reply comments on or before June 20, 1989. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inpsection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

30. A copy of this Notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

31. In order to avoid unduly burdening the **Federal Register** and to save the approximate $7,800 in printing costs, we are publishing a summary of this Notice of Proposed Rule Making in the **Federal Register** without the appendices that contain the proposed rules and reference summaries. Copies of the entire document are available from the Commission's duplication contractor: International Transcription Service, Inc., Suite 140, 2100 M Street NW., Washington, DC 20037; telephone 202–857–3800. This procedure satisfied notice requirements as well as the needs of the public while saving the Commission significant printing costs.

32. Regarding questions on technical matters covered in this document, contact Kathryn S. Hosford, Room 5114, Private Radio Bureau, Federal Communications Commission, 1919 M Street NW., Washington, DC 20544; telephone 202–632–7197.

Donna R. Searcy,

Secretary.

[FR Doc. 89–11500 Filed 5–12–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 69

[CC Docket No. 89–79, FCC 89–105]

Access Charges

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes a methodology to integrate Open Network Architecture (ONA) tariffing policies into the existing Part 69 access charge rules. The NPRM proposes retaining the present form of the enhanced service provider (ESP) exemption from access charges. In addition, the NPRM proposes eliminating certain specific ONAS pricing requirements.

DATES: Comments must be received on or before June 26, 1989; replies must be received on or before July 26, 1989.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Regina Harrison, Policy and Program Planning Division, Common Carrier Bureau (202) 632–4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (FCC 89–105), adopted March 30, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 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.

Summary of Notice of Proposed Rulemaking

1. On March 30, 1989, the Commission adopted a Notice of Proposed Rulemaking in CC Docket No. 89–79. In this NPRM, the Commission considers how best to integrate its ONA tariffing policies into the existing Federal access charge rules. The Commission seeks comment on modifications necessary to the access charge structure to accommodate the unbundled basic service elements (BSEs) and basic serving arrangements (BSAs) described in the ONA plans of the Bell Operating Companies (BOCs), as modified in the *BOC ONA Order* (54 FR 3453 (1/24/89)).

2. The Commission tentatively concludes that the BOCs should offer BSEs as unboundled rate sub-elements within the existing access elements. The Commission does not believe that major modifications to the access rules would be necessary to implement this unbundling. The Commission tentatively concludes that because BSAs are quite similar to existing access arrangements, such as switched access feature groups and various forms of special access, no modifications to existing rules are required for BSAs. However, the Commission tentatively finds that certain modifications are necessary for the Local Switching element, since many BSEs are switch-related; it also seeks comment on other elements that may be effected. The Commission tentatively concludes that, given the existing constraints on carriers' overall return that apply to Local Switching, and the numbers and character of BSEs to be unboundled, the BOCs should be permitted some pricing flexibility within that element for BSEs. The Commission seeks comments on several alternatives that would permit such a result: (1) Continued adherence to existing rate of return constraints at the element level alone; (2) application of rules analogous to those imposed on strategically priced special access rates; (3) application of a particular costing model such as the Bellcore Switching Cost Information System; and (4) application of fully distributed costing principles to BSE subelements. The Commission proposes to extend this treatment generally to

other rate subelements that the Commission either requires or permits local exchange carriers to offer on an unbundled basis.

3. The Commission also tentatively concludes that the present enhanced service provider (ESP) exemption from access charges should be retained, since it ensures a measure of stability in this time of rapid change for the enhanced service industry. Compared to alternative approaches, the present exemption provides substantial benefits to ESPs while not imposing new burdens on other ratepayers or disrupting state policies. However, the Commission invites comments on two possible alternatives to the present exemption: (1) Exemption from the carrier common line charge, while continuing to assess traffic sensitive charges for interstate switched access; and (2) a percentage discount on all switched access elements.

4. Finally, the Commission will reassess whether the specific pricing requirements established in *Computer III* are necessary for ONA services, given the BOC's ONA proposals and the tariffing principles established in the *BOC ONA Order*. The Commission tentatively concludes that these requirements, relating to distance-sensitive pricing, the Basic Interconnection Charge and the Basic Concentration Charge, are no longer necessary and should be eliminated.

5. This is a non-restricted notice and comment rulemaking proceeding. *See generally* § 1.1206(a) of the Commission's rules, 47 CFR 1.1206(a), for rules governing permissible *ex parte* contacts.

6. The Commission determined that the Regulatory Flexibility Act is not applicable in this proceeding. In its major access charge rulemaking proceeding (CC Docket 78–82), the Commission determined that the Regulatory Flexibility Act did not apply in that local exchange carriers, the parties directly subject to our rules, do not fall within the Act's definition of a "small entity."

7. The proposal contained in the NPRM has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public.

8. Pursuant to 47 U.S.C. 154(i), 154(j), 201–05, 218, and 403, and 5 U.S.C. 553, notice is hereby given of the proposed adoption of new or modified rules in accordance with the discussion and delineation of issues in this Notice of Proposed Rulemaking.

9. Comments on the issues and proposals discussed herein, together with proposed rule amendments, if any, are to be filed not later than June 26, 1989 and replies are to be filed not later than July 26, 1989. In accordance with the provisions of Section 1.419 of this Commission's Rules, 47 CFR 1.419, an original and five copies of all statements, briefs, comments or replies shall be filed with the Federal Communications Commission, Washington, DC 20554, and all such filings will be available for public inspection in the Docket Reference Room at this Commission's Washington, DC office. One additional copy shall be filed at the offices of International Transcription Services (ITS), 1919 M Street NW., Room 246, Washington, DC 20037. In reaching our decision, this Commission may consider information and ideas not contained in filings, provided that such information is reduced to writing and placed in the public file, and provided that the fact of this Commission's reliance on any such information or ideas is noted in the Order.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–11499 Filed 5–12–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–98, RM–6638]

Radio Broadcasting Services; Davis and Winters, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Eric R. Hilding, d/b/a Hilding Communications, requesting the allotment of FM Channel 288A to Winters, California, as that community's first local broadcast service. Additionally, petitioner requests the substitution of Channel 282A for Channel 288A at Davis, California, licensed to KYLO Radio, Inc., for Station KYLO(FM), to accommodate the proposal. Coordinates used for Channel 288A at Winters are 38–33–17 and 121–57–12, while those used for Channel 282A at Davis are 38–35–20 and 121–43–30.

DATES: Comments must be filed on or before June 26, 1989, and reply comments on or before July 11, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Eric R. Hilding, d/b/a Hilding Communications, P.O. Box 1700, Morgan Hill, CA 95037.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–98, adopted 24, 1989, and released May 5, 1989. 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 1.1204(b) 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.

Karl A. Kensinger,

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

[FR Doc. 89–11502 Filed 5–12–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–99, RM–6640]

Radio Broadcasting Services; North Crossett, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Contemporary Communications, permittee of Station KWLT(FM), Channel 274A, North Crossett,

Arkansas, seeking the substitution of Channel 274C2 for Channel 274A and modification of its permit accordingly. Reference coordinates used for Channel 274C2 at North Crossett are 33–08–23 and 92–04–14.

DATES: Comments must be filed on or before June 26, 1989, and reply comments on or before July 11, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Larry G. Fuss, Contemporary Communications, P.O. Box 4010, Opelika, AL 36803.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–99, adopted April 24, 1989, and released May 5, 1989. 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 1.1204(b) 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.

Karl A. Kensinger,

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

[FR Doc. 89–11501 Filed 5–12–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 76

[MM Docket No. 89–35]

Definition of a Cable Television System

AGENCY: Federal Communication Commission.

ACTION: Proposed rule; correction of dates.

SUMMARY: This notice corrects the filing dates previously prescribed in the Federal Register of April 10, 1989 (54 FR 14253) for comments and replies to be submitted in the FCC's proposed rulemaking concerning the definition of a cable television system, MM Docket No. 89–35.

DATES: Comments must be submitted on or before June 9, 1989, and reply comments on or before July 10, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barrett L. Brick, Cable Television Branch, Video Services Division, Mass Media Bureau, (202) 632–7480..

Erratum

Released:

This document corrects the dates on which comments and reply comments are due on the Notice of Proposed Rule Making (FCC 89–40) in the captioned proceeding. The correct dates are June 9, 1989, and July 10, 1989, respectively.

Federal Communications Commission

Donna R. Searcy,

Secretary.

[FR Doc. 89–11503 Filed 5–12–89; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 383

[FHWA Docket No. MC–89–9]

RIN 2125–AC24

Minimum Uniform Standards for a Biometric Identification System to Ensure Identification of Operators of Commercial Motor Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The FHWA is requesting comments from interested parties concerning the establishment of a biometric identifier for operators of commercial motor vehicles (CMVs). This identifier would be used in conjunction with the Commercial Driver's License Information System (CDLIS) to assure the positive identification of drivers in order to prevent multiple commercial drivers' licenses (CDLs). This action is in response to Congress' enactment of the Truck and Bus Safety and Regulatory Reform Act of 1988, Section 9105, which requires the Secretary of Transportation to issue, by December 31, 1990, regulations establishing minimum uniform standards for a biometric identification system for identification of operators of CMVs.

DATE: Comments must be received on or before July 14, 1989.

ADDRESS: Submit written, signed comments to FHWA Docket No. MC–89–9, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb density) in a format that is compatible with either word processing programs, Word Perfect or WordStar. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Ms. Jill L. Hochman, Chief, Standards Review Division, Office of Motor Carrier Standards (202) 366–4009, or Mr. Paul Brennan, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 9105(a) of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Pub. L. 100–690, 102 Stat. 4181, 4527) requires the Secretary of Transportation to issue, by December 31, 1990, regulations establishing, for purposes of section 12007 and 12009 of the Commercial Motor Vehicle Safety Act of 1986, minimum uniform standards for a biometric identification system applying to operators of CMVs. The purpose of this system would be to provide positive identification of drivers in the CDLIS and a constraint against drivers' obtaining more than one CDL.

Background

A variety of factors contribute to accident causation, including the highway, the environment, the vehicle

and the driver. The Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. L. 99-570) (CMVSA) was enacted to remove unsafe and unqualified commercial drivers from the nation's highways. This will be done by making it illegal for drivers to have more than one license; by establishing uniform standards which will be used by the States to issue a CDL; by ensuring that a driver possesses the knowledge and skills necessary to safely operate the type of vehicle he or she drives; by establishing standards based on convictions for which CMV operators will be disqualified; and instituting a reporting system to ensure that all such convictions are reported to the driver's State and included on his/her driver's record.

To assure "one license-one record" for each driver, the CMVSA also directed the Secretary to establish an information system which would serve as a clearinghouse and depository of information pertaining to the licensing and identification of operators of CMVs and the disqualification of such operators from operating CMVs. The clearninghouse, CDLIS, contains the identification information on CMV drivers and identifies the State which issued the license and where the driver's record is retained. CDLIS is connected to a telecommunication system, AAMVAnet, operated by AAMVAnet, Inc., a wholly owned subsidiary of American Association of Motor Vehicle Administrators (AAMVA). AAMVAnet, which connects the States to the CDLIS and each other, is designed to facilitate the timely exchange of information on commercial drivers among the States.

Section 12007 of the CMVSA provides that the CDLIS shall, at a minimum, include the following information concerning each operator of a commercial motor vehicle:

(1) Information the Secretary considers appropriate to ensure identification of such operator;

(2) The name and address of such operator and a physical description of such operator;

(3) The social security number (SSN) of such operator or such other number or information as the Secretary determines appropriate to identify such operator;

(4) The name of the State which issued the driver's license to such operator;

(5) The dates between which such license is valid; and

(6) Whether or not such operator has or has had a driver's license which authorized such person to operate a commercial motor vehicle suspended, revoked, or canceled by a State, has lost the right to operate a CMV in a State for any period, or has been disqualified from operating a CMV.

The CDLIS, which became operational in January, 1989, provides an inquiring State with the ability to check if a person already has a CDL before issuing a commercial license to that applicant. The CDLIS is actually a "pointer system" which employs a matching procedure to determine if an applicant was ever issued a CDL and, if so, then points to the State which issued it. The actual driver's record can then be sent (electronically) to the inquiring State. Each State retains both the right to issue and administer the commercial driver's licenses held by its residents and the responsibility to maintain the driver record associated with each licensed driver. States are required to report non-resident convictions to the State of residence. The driver record information is available to other States.

Currently, a cluster of personal and descriptive data is being used as the identifier. The items included in this cluster are: name, date of birth, sex, height, weight, eye color, social security number, and license number with State of issuance.

A variety of procedures are used to manipulate identifying information, including name reduction via a soundex-type equivalent, substitution of nicknames, deviations on birth dates, deviations on SSN, etc. The process results in a probability of identification. At the completion of the procedures, if the probability of an identification remains above a specified threshold, this probable match is reported to the inquirer. If multiple possible matches are found, they are also returned to the inquirer for evaluation.

Because identifying information includes the license number and the State that issued the license for each name and alias, it is possible to quickly verify whether the person holding the license appears to be the one to whom it was issued. Very few people will be able to avoid identification (e.g. to use a false identity) by the procedures that are in place. If a false identity is created in order to obtain multiple licenses, it is likely that fraud has been committed.

Because the CDLIS design was developed in parallel with the FHWA's notice of proposed rulemaking (NPRM) on the Commercial Driver Testing and Licensing Standards, published at 52 FR 47326 on December 11, 1987, the broader cluster of identifiers described above had not been adopted at the time the NPRM was published. Consequently, the NPRM addressed only a SSN as the unique identifier. Among the questions raised in that NPRM [FHWA Docket No. MC-87-18], on CDL documentation was "although FHWA's proposal uses the social security number as the number to identify CMV operators, the FHWA recognizes that there are several new and developing technologies that could be used to uniquely identify each CMV operator.* * * Should any of these technologies be required as part of the standard?" The response to this question was varied. Most of the States that responded requested that further study of relevant technologies be undertaken. These States favored further study leading toward adoption of a system and a phase-in period at a later date, after the initial CDL system is fully operational. Some states noted that systems currently are very expensive; the field is advancing very fast; and technology is quickly obsolete. The associations and private companies that responded were more evenly divided between further study and immediate adoption of a more sophisticated technology. The American Trucking Associations (ATA) proposed the early adoption of the retinal scan as the identifier. The ATA alleged that the social security number is unsatisfactory as an identifier since it is relatively easy to obtain fraudulent social security numbers. It claimed that retinal image data could be stored on a magnetic strip on the CDL, ensuring roadside positive identification of drivers.

Since passage of the CMVSA, the FHWA, along with its contractors, AAMVA and California, has proceeded to study this issue in a methodical manner. In 1987, the Orkand Corporation, as part of a broader effort, evaluated biometric identifiers. The Orkand Corporation report, entitled "Functional Description for a Unique Identification System for the Commercial Driver's License Information System" was delivered in February 1988. In December, 1988, the State of California, Department of Motor Vehicles (CDMV), in conjunction with a Committee of States, finalized an FHWA funded "Feasibility Study Report" on biometric identifiers. These reports have been placed in the public docket and are available for review. They are summarized later in this document.

In recent legislation, the Congress further recognized the importance of the positive identification of drivers and required standards for a biometric identifier. Section 9105 of the Truck and Bus Safety and Regulatory Reform Act of 1988 requires that the Secretary shall:

(a) Issue regulations by December 31, 1990, that establish minimum uniform standards for a biometric identification

system to ensure identification of operators of commercial motor vehicles.

(b) Carry out a pilot project to demonstrate the use of such biometric identification systems.

Results of Prior Studies

The Orkand Corporation reported on issues associated with biometric technology. It examined retinal image, fingerprint, hand geometry, voice, and signature biometirc technologies, and the appropriatneess of using biometric identification within the commercial driver licensing environment. The report evaluated each of these biometrics against the following three principal requirements which Orkand believed, based on its research, to be necessary for any identification technology used in a commercial driver licensing environment. The Report states that:

(a) the system must be capable of performing both enrollment and verification functions; (During enrollment the biometric database is searched for duplicate records; during verification, the current biometric identify record is compared to the previously stored biometric enrollment records.)

(b) the system must be capable of performing these functions for large data bases; and

(c) the system must be able to monitor identifier recording processes. (The identifiers under consideration rely on consistent measurement or reading of the characteristics being captured. In order to assure that good data is captured, the system must permit monitoring by driver's licensing personnel.)

The report concluded that two biometric technologies—retinal scanning and automatic fingerprint identification systems (AFIS)—should be considered to identify commercial drivers because these two technologies are the only biometric identifiers that met the principal criteria. Retinal scanning measures the light and dark areas caused by blood vessel patterns in the eye. AFIS uses minutiae (fingerprint ridge characteristics) matching technology, an image system and a networking capability to access data bases. Also, the report recommends careful testing of biometric systems both in controlled and demonstration environments prior to considering a full-scale implementation program.

The CDMV then proceeded to determine the feasibility of biometric identifier technology in the driver licensing environment. The CDMV Feasibility Study Report recommends that both retinal scan and AFIS technologies be tested within a driver licensing environment to determine which technology best satisfies the national CDL program effort and the one-license provision of CMVSA.

The CDMV report identified an initial set of functional requirements that should be satisfied by the system design of any biometric identifier system in order to be feasible for commercial driver licensing. These are:

1. The system must capture the biometric identifier from each applicant without increasing the net transaction processing time (the actual time a customer is in a DMV office).

2. The biometric identifier must be an accurate, relatively unalterable, unique, physical characteristic that can be captured, recognized or verified and stored and that is verifiable over an indefinite period of time.

3. The method of capturing the biometric identifier must be unobtrusive to the applicant. The method must be socially acceptable and not endanger the health, safety, or welfare of any applicant.

4. The system of capturing, recognizing or verifying and storing each applicant's biometric record must have been previously tested for accuracy in an environment that proximates that of the CDLIS with an acceptable error rate.

5. The system must be able to search and compare new biometric identifiers against stored records. The system must also be capable of performing verifications on previously established biometric records. The recognition process must be accomplished within an acceptable amount of elapsed time after receipt of the inquiry, and verification processes must be accomplished within a very short time from the receipt of the inquiry.

6. During the initial enrollment process (conversion) for previously licensed commercial drivers, the biometric data base file will grow from zero records to 5 million records. Therefore, during the conversion, the system must be capable of searching and comparing the 5 million current records and the 500,000 new CDLs issued each year against this growing data base. Once the biometric records on existing commercial drivers have been captured, compared and stored, the system must be capable of annually recording, comparing, and storing 500,000 new CDL applicants' biometric records. The system must also be capable of annually verifying the biometric records on 1.25 million CDL renewal applicants, 250,000 interstate residency change applicants and 90,000 applicants seeking duplicate (replacement) licenses and the anticipated 5% a year growth in these types of applications.

7. The system must have a method of capturing, storing, and reporting management information, such as the number of new biometric records accepted, the number of biometric records verified, the number of applicants the system was unable to "enroll," measurements of the quality of the information captured, system down time, the system errors by type, and average enrollment processing time on a daily, weekly and monthly basis.

8. The system must be compatible with and capable of interfacing with CDLIS designed pursuant to the CMVSA.

9. The system must be reliable, allowing the states to provide uninterrupted service to their applicants.

10. Any biometric identifier capturing device must provide on-site, immediate identification of whether or not an acceptable biometric sample has been obtained, thereby guarding against the need for customers to make return visits to the local offices solely to recapture their biometric record.

11. The system must be simple to use. Use of the system must be easily understood by employees and must be easy to explain to the states' customers whether they are English or non-English speaking.

12. In order to encourage maximum biometric system participation by the states, the system should offer sufficient flexibility in procurement options and the capture and transmission of the biometric data.

13. The system must be capable of accurately accomplishing proper identification without a candidate list for virtually all of the applications.

14. The system must be capable of interfacing with other biometric identifier systems using the same type of biometric and meeting standards of data exchange recognized by the AAMVA now or in the future for the biometric identifier captured. If the biometric identifier is an automated fingerprint, the interface must meet American National Standards Institute (formerly the National Bureau of Standards) standards.

15. The verification template/minutiae must be capable of being incorporated on a data carrier card issued in the form of a driver's license.

16. The system must have the potential for remote verification when used with a data carrier license document.

As provided by the Truck and Bus Safety and Regulatory Reform Act of 1988, the FHWA intends to carry out a pilot project to demonstrate and study the use of biometric identification systems for ensuring identification of operators of CMVs. As recommended in the Feasibility Study Report, both retinal

scan and AFIS technologies will be tested by the FHWA in the pilot study within a driver licensing environment to determine which technology best satisfies the national CDL program effort and the one-license provision of the CMVSA. Both technologies will be assessed to determine the ability of each to meet the requirements outlined in the Feasibility Study Report.

Rulemaking

The FHWA expects to issue a notice of proposed rulemaking based on the comments on this advance notice of proposed rulemaking and results from the pilot demonstration project. The pilot demonstration project is expected to be completed by December 1989. The requirements outlined in the Feasibility Study Report which relate to uniqueness, accuracy, versatility, reliability, flexibility, processing time, and public acceptability will be thoroughly studied. Costs and related benefits will also be assessed. We expect the notice of proposed rulemaking to be issued in early 1990 and the final rule by the end of that year as required by the Truck and Bus Safety Act and Regulatory Reform of 1988.

Issues and Questions for Comment

In order to more fully understand the various issues relating to this topic and to develop a proposal as required by the 1988 Act, the FHWA is soliciting comments on the following questions, as well as any additional issues identified by respondents.

Costs and benefits

Although some drivers maintained multiple drivers licenses before July 1, 1987, when this practice was not clearly prohibited by Federal regulations or by all of the States, it is unknown how many drivers continue to possess multiple licenses. It is even more unclear how many would take the considerable additional steps required to create a false identity in order to circumvent the law once all CDL holders are registered in one central clearinghouse. In order to understand the scope of the current problem or the problem as it may exist in the future, any information possessed by the industry, the States, professional organizations, or the general public is requested.

(1) How many drivers currently operate in defiance of the law?

(2) Also, how extensive will this problem be when the program is fully implemented and all CDL holders are entered into the CDLIS?

(3) On what basis are the above estimates of the size of the problem made?

(4) What alternatives besides the biometric identifier can be used to reduce or eliminate the problem?

(5) Since the CDLIS supports a broad comparison of identifying information, does internal comparison of individual identification records, in conjunction with severe penalties, provide ample reason for drivers not to seek multiple licenses?

The pilot demonstration project will assess two technologies: retinal scan and AFIS. The FHWA needs information concerning costs and benefits for each of these systems. The FHWA realizes that the pilot will help develop some of this information, but seeks input on other related experience.

(6) How much will such a system cost in terms of hardware, software, personnel, training, and impacts on existing state licensing procedures? Please specify by each office where the equipment is located and for the entire State.

(7) What factors are most likely to increase costs of the system?

(8) What are the costs likely to be for making the system mandatory for all states as opposed to making it optional?

(9) What are the benefits likely to be?

(a) In terms of money?

(b) In terms of "non-monetary" or social benefits?

(10) How much would each State be willing to pay each year for such a system?

(a) In terms of additional AAMVAnet costs.

(b) In terms of within State costs.

(c) Both of these.

(11) How much could each licensee be assessed for such a system and how would this relate to total costs?

(12) What is a tolerable error rate for both erroneously identifying a match when there is not one and not identifying a match that should actually be one?

(13) How much additional time for conducting the match search is considered acceptable? This process may delay issuance of a license.

(14) Under what conditions would it be acceptable to issue temporary licenses?

(15) What are the acceptable added costs (per license), assuming limited and widespread use?

(16) What benefits would be achieved in having the biometric information available on the CDL in a form that could be read electronically?

Mandatory versus optional

The Truck and Bus Safety and Regulatory Reform Act of 1988 requires that minimum uniform standards for a biometric identification system be established for purposes of sections 12007 and 12009 of the CMVSA.

(17) Should the establishment of such a system be made mandatory for all States?

(18) If so, when should such a standard be mandated?

Privacy

(19) Are there privacy issues involved?

(20) Would there be any privacy distinctions between an AFIS and the retinal scan?

(21) If problems are noted, what modifications would alleviate these?

(22) Who should have access to this data and for what purpose?

Market considerations

Currently, there is only one vendor marketing retinal scan technology and only a limited number marketing automatic fingerprint identification systems technology, which cannot currently exchange data from one vendor's system to another's at an acceptable level of detail.

(23) Is there vendor support to accommodate nationwide implementation and projected growth?

(24) Should the FHWA merely specify performance parameters and leave vendors to develop requisite systems, or should the selection be restricted to existing system designs?

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291. However, because of the public interest in commercial motor vehicle safety, this notice is considered significant under the regulatory policies and procedures of the DOT. For this reason and pursuant to Executive Order 12498, this rulemaking action has been included on the Regulatory Program for significant rulemaking actions.

The economic impacts of this rulemaking that will occur are mandated by the statutory provisions themselves. For this reason, a full regulatory evaluation will not be required. However, commenters should provide any cost/benefit data that they believe relevant.

Based upon information available to the FHWA at this time, this action, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory

Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Federalism Assessment Statement

The FHWA will review this action in light of the purposes of the Truck and Bus Safety and Regulatory Reform Act of 1988 and requests comments on ways to reduce the paperwork burden. Nothing in this document directly preempts any State law or regulation. It is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order 12612 (October 26, 1987).

List of Subjects in 49 CFR Part 383

Commercial driver's license standards requirements and penalties, Highway and roads, Motor vehicle safety, Reporting and recordkeeping requirements.

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

Authority: Sec. 9105 of Pub. L. 100-690, 102 Stat. 4181, 4527.

Issued on May 1, 1989.

R. D. Morgan,

Executive Director.

[FR Doc. 89-11532 Filed 5-12-89; 8:45 am]

BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003, 1160, 1162 and 1168

[Ex Parte No. 55 (Sub-No. 69)]

RIN 3120-AA57

Rules Governing Applications for Operating Authority; Revision of Form OP-1

AGENCY: Interstate Commerce.

ACTION: Notice of proposed rules.

SUMMARY: The Commission is proposing to revise significantly the general licensing application form (Form OP-1) and to make corresponding revisions in its regulations governing licensing procedures at 49 CFR Parts 1160, 1162, and 1168 and the list of forms at 49 CFR Part 1003. The proposed OP-1 replacement form would integrate the information presently required in and supercede:

(1) The existing Form OP-1 used by applicants for motor and water carrier, property broker, and household goods freight forwarder authority; and

(2) Form OCCA-95 used by applicants for temporary and emergency temporary authority.

The proposed form revisions are intended to simplify and unify the temporary and permanent authority licensing processes, minimize the application filing burdens on applicants and, in turn, create a more efficient application process, both for the public and the Commission.

DATE: Comments are due June 14, 1989.

ADDRESS: Send comments (an original and 10 copies referring to Ex Parte No. 55 (Sub-No. 69) to:

Interstate Commerce Commission,
Office of the Secretary,
Case Control Branch,
Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Suzanne Higgins O'Malley, (202) 275-7292, or Richard B. Felder, (202) 275-7691. (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: The proposed instructions for completing the application form are set forth at Appendix A, and the proposed replacement Form OP-1 at Appendix B. Corresponding rule revisions are set forth below.

The revised application form proposed here would minimize narrative responses required of applicants and, to the extent feasible, substitute a "check the box" or "fill in the blank" format for eliciting information concerning proposed service descriptions and applicants' evidence of corresponding fitness, willingness, and ability to provide the involved transportation. The format reflects the vast majority of applications being received. We anticipate that this revised format will appreciably streamline the application process and significantly reduce the public's need for assistance in interpreting the existing licensing application form.

At the same time, we have exercised great care in designing the replacement form to ensure that the simplified, self-contained format does not operate to force applicants into standardized licensing categories or to deprive them to flexibility to design operating authorities appropriate to their competitive circumstances, operating resources and limitations, and commercial realities. Under the revised licensing form and application rules, we will continue to observe fully the statutory and judicial mandates concerning the appropriate scope of operating authority and the nature of specific evidence required to substantiate requests for certain specialized transportation service categories.

Finally, the proposed form integrates the procedures and policies regarding applicants' safety fitness ratings we recently adopted in Ex Parte No. 55 (Sub-No. 71), "Notice of Policy and Final Rule Governing Submission and Evaluation of Safety Fitness Evidence in Motor Carrier Licensing Proceedings", 53 FR 49323 (December 7, 1988), served December 6, 1988. We stated there that comments would be requested on safety fitness licensing matters in this proceeding, and we now invite those comments. The Commission's approach to evaluating applicants' safety fitness is outlined in the "Instructions" that accompany the proposed form.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275-7428. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Environmental and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources. However, we specifically invite parties to comment on these issues.

Initial Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 603, the Commission is required to examine specifically the impact of a proposed action on small business and small organizations. We preliminarily conclude that this proposal will have a significant positive impact on such entities.

The proposed replacement form and corresponding licensing regulations will significantly reduce the time required of applicants and their representatives in preparing licensing requests, while ensuring that all information essential to the application review process continues to be captured on the form—indeed in a more efficient and useful manner. Unification of the existing Form OP-1 and Form OCCA-95 will appreciably reduce redundant

information and duplicated processing time that needlessly impede the handling of both temporary and permanent operating authority applications.

The benefits of administrative streamlining and enhancement of the application review process within the Commission will flow directly to small applicants in the form of expedited action on licensing requests. The simplified application and comprehensive instructions will provide increased assurance that licensing requests are properly formulated initially to substantially reduce the need for revision upon reaching the Commission or corrective assistance through informal contacts with applicants. As a result of the proposed action small applicants increasingly will be able to prepare and oversee the processing of their own applications. This will permit such applicants to commit a greater proportion of their limited resources to developing competitively sound operations once authority is granted, in lieu of inordinate expenditures to procure pre-licensing assistance and representation before the Commission.

We, therefore, conclude that the proposed rules will have a significant positive impact upon a substantial number of small carrier applicants, as well as upon applicants generally. This proposal will not impose additional reporting, recordkeeping, or compliance requirements upon small entities. Nor will the rules proposed here duplicate, overlap, or conflict with any existing Federal rule.

Because the overall simplification goals of this proposal speak directly to the potential impact on small businesses, we particularly invite the comments of interested parties on this matter.

Paperwork Reduction Analysis

It is estimated that an average of 4 burden hours per response are required to complete the information elicited on the proposed revised licensing Form OP-1. This estimate includes time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. As a result of the integrated nature of the licensing form, there will be only incremental differences between the completion time for permanent authority applications and those involving both temporary and permanent operating authority.

Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission, and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 3120-0079), Washington, DC 20503.

List of Subjects

49 CFR Part 1003

Brokers, Freight forwarders, Insurance, Maritime carriers, Motor carriers, Securities, Surety bonds.

49 CFR Part 1160

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Maritime carriers, Motor carriers.

49 CFR Part 1162

Administrative practice and procedure, Maritime carriers, Motor carriers.

49 CFR Part 1168

Administrative practice and procedure, Buses.

Decided: April 7, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

Title 49, Chapter X of the Code of Federal Regulations is proposed to be amended as follows:

PART 1003—LIST OF FORMS

1. The authority citation for Part 1003 would continue to read:

Authority: 5 U.S.C. 551(a), 5 U.S.C. 553(1)(c), and 49 U.S.C. 10321.

2. The entry for OP-1 (Rev. 12/83) in § 1003.2 is proposed to be revised to read as follows:

§ 1003.2 Motor and Water Carrier, broker and household goods freight forwarder forms.

* * * * *

OP-1 (Rev.)

Interstate Commerce Commission Authority Application.

Cross Reference: 49 CFR Parts 1160 and 1162.

* * * * *

3. The entry for OCCA-95 (Rev. 8/84) in § 1003.2 is proposed to be removed.

4. The rules now appearing at Part 1160 are proposed to be revised to read as follows:

PART 1160—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

Subpart A—How to Apply for Operating Authority

Sec.

1160.1 Applications governed by these rules.
1160.2 Procedures used generally.
1160.3 Starting the application process: Form OP-1.
1160.4 Types of applications.
1160.5 Commission review of the application.
1160.6 Appeals to rejections of the application.
1160.7 Changing the request for authority or filing supplementary evidence after the application is filed.
1160.8 After publication in the "ICC Register.
1160.9 Obtaining a copy of the application package.
1160.10 Opposed applications.
1160.11 Filing a reply statement.
1160.12 After all statements are submitted.
1160.13 Applicant withdrawal.
1160.14 Household goods freight forwarder applicants only.
1160.15 Water carrier applicants only.
1160.16 Passenger carrier applicants only.
1160.17 Motor property "fitness" applicants only.
1160.18 Applicability of oath.

Subpart B—How to Oppose Requests for Authority

Sec.

1160.40 Definitions.
1160.41 Time for filing.
1160.42 Contents of the protest.
1160.43 Protestant qualifications information—all protestants.
1160.44 Factual evidence format for protests in property and passenger fitness applications.
1160.45 Factual evidence format for passenger public interest applications.
1160.46 Protestant's rebuttal—passenger public interest applications only.
1160.47 Factual evidence format for protests in intrastate passenger applications under 49 U.S.C. 10922(c)(2)(A).
1160.48 Protestant's rebuttal—intrastate passenger applications under 49 U.S.C. 10922(c)(2)(A) only.
1160.49 Factual evidence format (except fitness only, passenger public interest, and passenger intrastate applications).

Subpart C—General Rules Governing the Application Process

Sec.

1160.60 Applicable rules.
1160.61 Contacting another party.
1160.62 Serving copies of pleadings.
1160.63 Replies to motions.
1160.64 Requesting oral hearing.
1160.65 Consolidation of applications.
1160.66 Petition to clarify or interpret formally and operating authority.
1160.67 Withdrawal.

Authority: 49U.S.C. 10101, 10305, 10321, 10921, 10922, 10923, 10924, 10928, and 11102; 5 U.S.C. 553 and 559; 16 U.S.C. 1456.

Subpart A—How to Apply for Operating Authority

§ 1160.1 Applications governed by these rules.

These rules govern the handling of applications for operating authority of the following type:

(a) Applications for certificates and permits to operate as a motor common or contract carrier of property or passengers.

(b) Applications for permits to operate as a household goods freight forwarder.

(c) Applications for certificates, permits, and exemptions for water carrier transportation of property and passengers.

(d) Applications for licenses to operate as a broker of motor vehicle transportation.

(e) Applications to remove operating restrictions from motor property and passenger carrier authorities.

(f) Applications for certificates under 49 U.S.C. 10922(c)(2)(A) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant holds interstate authority as of November 19, 1982.

(g) Applications for certificates under 49 U.S.C. 10922(c)(2)(B) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has been granted or will be granted interstate authority after November 19, 1989.

Note: Applications for emergency temporary and temporary motor and water carrier authority are filed on Form OP–1. Rules governing these applications are set forth at Parts 1162 and 1163.

§ 1160.2 Procedures used generally.

(a) *Modified procedure.* The Commission will handle licensing application proceedings using the modified procedure, if possible. The applicant and protestants send statements made under oath (verified statements) to each other and to the ICC. There are no personal appearances or formal hearings.

(b) *Oral hearings.* Oral hearings are used infrequently. Either an applicant or a protestant may request oral hearing at any time during the proceeding, using the procedures set forth at § 1160.64

Note: Intrastate passenger applications under 49 U.S.C. 10922(c)(2)(A) will be decided on the basis of the written record. There will not be an opportunity for oral hearing.

§ 1160.3 Starting the application process: Form OP–1.

(a) All applicants shall use Form OP–1 (revised).

(b) Obtain the form at Commission regional and field offices, or call the Office of the Secretary at (202) 275–7428. Additional information concerning the application process and required submissions is available from the Office of Public Assistance at (202) 275–7597.

§ 1160.4 Types of applications

(a) "Fitness only" applications. Certain types of motor property and passenger applications require only the finding that the applicant is fit, willing and able to perform the involved operations and to comply with all applicable statutory and regulatory provisions. These applications can be opposed only on the grounds that applicant is not fit or does not fall into a fitness-only category of service under the Interstate Commerce Act. These applications are:

(1) Motor common carrier of property transportation to serve any community not regularly served by a certificated motor common carrier.

(2) Motor common carrier of property transportation to provide service as a direct substitute for complete abandonment of all rail service in a community.

(3) Motor common carrier transportation for the United States Government of property (except used household goods, hazardous or secret materials, and sensitive weapons and munitions).

(4) Motor common carrier property transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds.

(5) Motor common or contract carrier of property transportation of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agriculture limestone and other soil conditioners, and agricultural fertilizers, when the transportation is provided with the owner of the motor vehicle in the vehicle (except in emergency situations). After issuance of the authority, such transportation (measured by tonnage) shall not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the Commission's jurisdiction under 49 U.S.C. 10526(a)(6).

(6) Transportation for the United States Government of used household goods which transportation is incidental to a pack-and-crate service on behalf of the Department of Defense.

(7) Motor carrier brokerage of general commodities (except household goods).

(8) Privately-funded motor common carrier of passengers charter transportation.

(9) Privately-funded motor common carrier of passengers special transportation.

(10) Motor common carrier of passengers authority to serve any community not regularly served by a certificated motor common carrier of passengers.

(11) Motor common carrier of passengers authority to provide service as a direct substitute for abandonment or discontinuance of all rail and commercial-air passenger service in a community.

(12) Motor common carrier of passengers transportation to any community where the only interstate motor common carrier of passengers has applied to discontinue the interstate service under 49 U.S.C. 10925(b) or to reduce intrastate service under 49 U.S.C. 10935 to less than one trip per day (excluding Saturdays and Sundays).

(13) Motor contract carrier of passengers transportation.

(b) Motor passenger "public interest" applications. Certain types of applications require the finding that applicant is fit, willing, and able, and, when protested, whether the transportation to be authorized is not consistent with the public interest. In addition to the grounds listed in § 1160.4(a), a protestant may oppose the application on the grounds that a grant of the application will not be consistent with the public interest. These applications are:

(1) Motor common carrier of passengers transportation provided by an applicant receiving governmental financial assistance for the purchase or operation of buses, or by an applicant that is an operator for such a recipient, except to perform a service described in § 1160.4(a) (10), (11) or (12).

(2) Motor common carrier transportation of passengers over regular routes in interstate or foreign commerce, except to perform a service described in § 1160.4(a) (10), (11) or (12).

(3) Motor common carrier transportation of passengers in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) on regular routes over which applicant has been or will be granted authority in interstate commerce after November 19, 1982.

(c) Intrastate motor passenger applications under 49 U.S.C. 10922(c)(2)(A). Applications filed by motor common carriers of passengers that held authority on November 19, 1982, to provide interstate transportation of passengers on a route over which the

carrier now proposes to provide regular-route transportation entirely in one State will be granted a certificate to provide the intrastate transportation if the Commission finds that the carrier is fit, willing and able to provide the intrastate transportation and to comply with Commission rules and regulations, unless the Commission finds, on the basis of evidence presented by a person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed. The Commission will take final action upon these applications not later than 90 days after the application is filed with the Commission.

Note: Commuter bus service or operation means short-haul, regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and used primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak periods of operations.

(d) Motor property common carrier applications. These applications require a finding that:

(1) The applicant is fit, willing, and able to provide the involved transportation and to comply with all applicable statutory and regulatory provisions: and

(2) The service proposed will serve a useful public purpose, responsive to a public demand or need.

(e) Water common carrier applications. These applications require a finding that:

(1) The applicant is fit, willing, and able to provide the involved transportation and to comply with all applicable statutory and regulatory provisions: and

(2) The transportation to be provided is or will be required by the present or future public convenience and necessity.

(f) Motor and water contract carrier, household goods property broker, and household goods freight forwarder applications. These applications require a finding that:

(1) The applicant is fit, willing and able to provide the involved transportation and to comply with all applicable statutory and regulatory provisions: and

(2) The transportation to be provided will be consistent with the public interest and the national transportation policy of 49 U.S.C. 10101.

§ 1160.5 Commission review of the application.

(a) ICC staff will review the application for correctness, completeness, and for adequacy of the evidence (the *prima facie* case).

(1) Minor errors will be corrected without notification to the applicant.

(2) Materially incomplete applications will be rejected. Applications that are in substantial compliance with these rules may be accepted.

(3) All motor carrier applications will be reviewed for consistency with the Commission's operational safety fitness policy as set forth in "Safety Fitness Evidence—Licensing Proceedings", 5 I.C.C.2d 94 (1988). Applicants with deficient safety ratings from DOT will have their applications rejected in a letter notice and their filing fees returned.

(4) An employee board of the Commission appointed under § 1011.6(k) will review completed applications that are in conformance with the Commission's safety fitness policy. The entire Commission will review motor property applications filed by applicants that hold a "conditional" safety fitness rating from DOT, that do not seek to transport hazardous commodities, and that present evidence responsive to the Commission's safety fitness policy. The employee board, or in the case of conditionally-rated, non-hazardous motor property applicants, the Commission, determines whether there is adequate evidence to warrant publication of the authority applicant seeks in the "ICC Register" as a preliminary grant. If there is not, the application will be rejected in a letter notice to applicant, without prejudice to refiling once deficiencies have been corrected. Applicants that refile their applications may refer to the docket number and fee stamp number assigned to prior filing and no additional filing fee will be required. An applicant may appeal rejections as provided under § 1160.6.

(b) A summary of the application will be published as a preliminary grant of authority in the "ICC Register" to give notice to the public in case anyone wishes to oppose the application.

(c) If the "ICC Register" publication does not properly describe the authority being sought because of ministerial error, applicant shall inform the Office of Proceedings, Motor Section, as soon as possible. Where notification is received within 10 days of the publication, ministerial errors will be corrected and the notice will be republished. Notifications after 10 days will result in republication only at the Commission's discretion and may result in an application being rejected without prejudice to refiling.

§ 1160.6 Appeals to rejections of the application.

(a) An applicant has the right to appeal rejection of the application. The appeal must be filed at the Commission within 10 days of the date of the letter of rejection.

(b) If the appeal is successful and the filing is found to be proper, the application shall be deemed to have been properly filed as of the decision date of the appeal.

§ 1160.7 Changing the request for authority or filing supplementary evidence after the application is filed.

(a) An applicant may not supplement evidence once the application is filed (unless directed to do so by the Commission).

(b) Amendments to the application are not permissible.

§ 1160.8 After publication in the "ICC Register."

(a) Interested persons have 45 days to file protests. *See* Subpart B of this Part.

(b) If no one opposes the application, the grant published in the "ICC Register" will become effective.

(c) If no one opposes the application for an extension of authority, the grant published in the "ICC Register" will be made effective by issuance of a certificate, permit, or license. If no one opposes an application for initial authority, the grant published in the "ICC Register" will be made effective by a Commission notice outlining compliance requirements that must be met before applicant commences the proposed service.

§ 1160.9 Obtaining a copy of the application package.

After publication, interested persons may request a copy of the application by writing to the Commission-designated contract agent (as identified in the "ICC Register", Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. The request must be accompanied by a check or money order for $10 made payable to such contract agent or by contacting the contract agent at (202) 289–4357 [TDD for hearing impaired: (202) 275–1721] and arranging billing as acceptable to the agent.

§ 1160.10 Opposed applications.

If the application is opposed, opposing parties are required to send a copy of their protest to the applicant.

§ 1160.11 Filing a reply statement.

(a) If the application is opposed, applicant may file a reply statement. This statement is due at the Commission within 60 days of the "ICC Register" publication (30 days for intrastate passenger applicants under 49 U.S.C. 10922(c)(2)(A)).

(b) The reply statement may not contain new evidence. It shall only rebut or further explain matters previously raised.

Note: In passenger carrier "public interest" applications, if a protestant has raised the "public interest" issue under § 1160.4(b), an applicant may submit any reply evidence to the "public interest" issue. In intrastate passenger applications under 49 U.S.C. 10922(c)(2)(A), if a protestant has raised the issue of the application's effect on commuter bus service operations under § 1160.4(c), an applicant may submit any reply evidence in response to the commuter service issue.

(c) The reply statement need not be notarized or verified. Applicant understands that the oath in the application form applies to all evidence submitted in the application. Separate legal arguments by counsel need not be notarized or verified.

§ 1160.12 After all statements are submitted.

(a) When the proceeding is to be handled under the modified procedure, the next notification to the parties will be the service of the initial decision.

(b) If the proceeding is to be handled by oral hearing, parties will receive a notice to this effect.

§ 1160.13 Applicant withdrawal.

If the applicant wishes to withdraw an application, it shall request dismissal in writing.

§ 1160.14 Household goods freight forwarder applicants only.

An applicant for household goods freight forwarder authority shall submit the following additional information with the application: Applicant shall state whether it is a person engaged principally in the business of manufacturing, buying, or selling articles and commodities, and whether it controls, is controlled by, or is under common control with any such person. If yes, applicant shall describe such persons and advise to what extent such persons use the services of household goods freight forwarders; or if applicant is such a person, whether it performs its own similar operations of assembling, consolidating, and shipping in connection with the transportation of such articles or commodities.

§ 1160.15 Water carrier applicants only.

(a) If an applicant seeks approval of dual operations under 49 U.S.C. 10930, it must specify those that would result from a grant of the application and must present evidence to establish that such operations are consistent with the public interest and the national transportation policy as set forth at 49 U.S.C. 10101.

(b) If applicant is a water common carrier seeking a revised certificate covering extension of service over newly opened waterways pursuant to 49 U.S.C. 10922(g)(3)(B), it must furnish the following with its application:

(1) A description of the portion of the waterway project newly opened for navigation, including the U.S. Engineer District, project number, description of project, and date opened for navigation;

(2) A description of the operation performed thus far on the uncompleted portion of the waterway newly opened for navigation, including the date service was extended and points served (*see* § 1166.3); and

(3) A description of operations performed under the present certificate authorizing service on the previously completed portion of the waterway, naming points served, indicating when service was commenced, and if the operation has been continuous.

§ 1160.16 Passenger carrier applicants only.

Applicants for various passenger carrier service categories must submit the following additional information with their applications:

(a) If the application is to serve a "community not regular served" under § 1160.4(a)(10), describe the location of the community and the interstate or other major highways which serve the community. If known, state the last date of service from other carriers and their identity, and the subsequent dates when service was requested from these carriers.

(b) If the application is for transportation services as a substitute for discontinued rail or commercial air passenger service under § 1160.4(a)(11), give the location of the points sought to be served by cross-referencing each specific community to the particular abandonment proceeding relied upon; certify that rail or commercial air passenger service, or both, was offered at the points for which authority is sought; and certify that all rail and commercial air passenger service has been discontinued and give the effective date of the latest discontinuance. The application must be filed within 180 days after the latest discontinuance becomes effective. The 180-day period begins to run either on the effective date of the certificate of abandonment issued by the appropriate government agency or, in a noncertificate case, on the date of a pronouncement by that agency regarding the abandonment. In situations where applications are filed before the actual abandonment takes place, the applicant must certify that after rail or commercial air passenger services cease on the line to be abandoned, no rail and commercial air passenger service by any carrier will remain. In such situations, the Commission will issue the certificate, but operations may begin only after the applicant files an affidavit certifying that all rail and commercial air passenger service has actually terminated at the granted points.

(c) If the application is for intrastate passenger authority under 49 U.S.C. 10922(c)(2)(A) (§ 1160.4(c), or 49 U.S.C. 10922(c)(2)(B) (§ 1160.4(b)(3)), submit a proposed draft of a certificate for issuance upon grant of the authority sought. The draft shall include: (1) The complete service description contained in each interstate authority for the routes over which applicant seeks to provide intrastate transportation, numbered separately by subnumber; and (2) the necessary modifications of the interstate authority authorizing the proposed intrastate operations. The draft certificate shall contain the service descriptions in the interstate authorities in the same format as in each of the authorities which will be superseded upon issuance of the draft certificate. Applicant should submit sufficient information under this paragraph for the Commission to determine readily the precise portions of the existing authorities upon which applicant's proposal is based.

Note: *Combination of authorities.* An intrastate passenger applicant may request intrastate authority in a single application on the basis of more than one underlying interstate authority if the underlying authorities are reasonably related. In applications based on more than one authority, the requests shall be clearly segregated according to each authority. Failure to comply may result in a rejection of the application.

Repeat applications. An interstate authority may be submitted more than once. However, a repeat application shall not be filed before the first application has been finally processed by the Commission.

§ 1160.17 Motor property "fitness" applicants only.

Applicants for various categories of motor property "fitness only" authority under 49 U.S.C. 10922(b)(4) must submit the following additional information with their applications:

(a) If the application is to serve a "community not regularly served" under § 1160.4(1), describe the location of the community and the highways which serve the community. If known, state the last known date of service from other carriers and their identity, and the date when service was requested from these carriers.

(b) If the application is for transportation service as a direct substitute for complete abandonment of all rail service to a community under § 1160.4(a)(2), submit:

(1) Docket number, approval date and effective date of the Commission's decision approving the abandonment, or, date of the Commission's recommendation or pronouncement in a noncertificate abandonment.

(2) Description of the location of the points sought to be served, indicating to what portion of the rail line they are adjacent (submit maps where obscure rural points are involved), and cross-referencing each specific community to the pertinent abandonment proceeding relied on.

(3) Certification that rail service was offered at the points for which authority is sought.

(4) Certification that all rail service has been terminated (give date if known), or

(5) If rail service has not yet been terminated, state that fact and submit certification that, after rail service does cease on the line to be abandoned, no rail service by any carrier will remain to the involved community.

(6) When the certification in paragraph (b)(5) of this section is made, and applicant has otherwise established its right to a certificate, the Commission will issue a certificate subject to the filing, when rail service is terminated, of another certification that all service has ceased at the granted points.

(7) *Filing period.* Applications under this subsection must be filed no later than 120 days (plus extensions) after the effective date of the Certificate of Abandonment issued by the Commission, or, in a non-certificate abandonment, 120 days after the issuance of a recommandation or other pronouncement by the Commission regarding the abandonment.

§ 1160.18 Applicability of oath.

Separate verification of any statement made under §§ 1160.14–1160.17 is not necessary. Applicant understands that the oath in the application form applies to these statements.

Subpart B—How To Oppose Requests For Authority

§ 1160.40 Definitions.

A person wishing to oppose a request for permanent authority files a protest. A person filing a valid protest becomes a protestant.

§ 1160.41 Time for filing.

A protest shall be filed (received at the Commission) within 45 days after notice of the application appears in the "ICC Register" (25 days for protests in intrastate passenger applications under 49 U.S.C. 10922(c)(2)(A)). A copy of the protest shall be sent to applicant's representative at the same time. Failure timely to file a protest waives further participation in the proceeding.

§ 1160.42 Contents of the protest.

(a) All information upon which the protestant plans to rely is put into the protest.

(b) A protest must be verified, as follows:

I, _____, verify under penalty of perjury under laws of the United States of America, that the information above is true and correct. Further, I certify that I am qualified and authorized to file this protest. (*See* 18 U.S.C. 1001 and 18 U.S.C. 1621 for penalties.)

_____
(Signature and Date)

(c) A protest not in substantial compliance with these rules may be rejected.

(d) A protestant must file two separate types of evidence: qualifications evidence under the format in § 1160.43 and factual evidence according to the applicable guidelines in §§ 1,160.44, 1160.45, 1160.47, or 1160.49.

§ 1160.43 Protestant qualifications information—all protestants.

Protestant must submit this information in separately numbered paragraphs:

(a) Docket number of application being opposed.

(b) Name and domicile of protestant. Include lead docket number of ICC authority, if any.

(c) Name and address of protestant's representative, if any.

(d) Name and address of witness presenting the evidence, and why qualified to speak for protesting party.

(e) Description of the extent to which the person seeking to protest possesses authority to handle the traffic for which authority is applied, is willing and able to provide service that meets the reasonable needs of the shippers or public involved, and has either performed service within the scope of the application during the 12-month period before the application was filed or has actively in good faith solicited business within the scope of the application during that period; or

(f) Description of any application which the prospective protestant has pending before the Commission which was filed before the applicant's and which covers substantially the same traffic; or

(g) Description of any other legitimate interest not contrary to the transportation policy set forth in 49 U.S.C. 10101(a), or of any right to intervene under a statute. Intervention on this basis is discretionary. A person seeking to qualify under this paragraph must submit a petition requesting leave to intervene which describes in detail the circumstances warranting its participation and how they are consistent with 49 U.S.C. 10101(a). The Commission normally shall permit intervention when the person seeking to intervene shows that a proceeding is novel or of first impression, is of industrywide importance, or has significant economic impact. Anyone may protest under this paragraph on the grounds of safety fitness.

Note: A motor contract carrier may not protest an application to provide transportation as a motor common carrier.

§ 1160.44 Factual evidence format for protests in property and passenger fitness applications.

Protestant must submit this information in separately numbered paragraphs:

(a) A description of the specific grounds upon which it is alleged that applicant cannot meet the statutory fitness criteria.

(b) Alternatively, evidence that the application does not properly fall within the scope of one of the statutorily described categories.

Note: If the Commission finds that the application does not properly fall within the scope of one of the categories, the application shall be dismissed without prejudice to the filing of an application for authority under other criteria.

(c) Legal argument (optional).

(d) Verification.

(e) Certificate of service.

(f) Request for oral hearing (optional).

§ 1160.45 Factual evidence format for passenger public interest applications.

Protestant must submit this information in separately numbered paragraphs:

(a) Evidence that a grant of the application would not be consistent with the public interest. Four factors are to be considered, to the extent applicable, and

given equal weight in determining whether authorization would be consistent with the public interest:

(1) The transportation policy of section 10101(a) of this title.

(2) The value of competition to the traveling and shipping public.

(3) The effect of issuance of the certificate on motor carriers of passenger service to small communities; and

(4) Whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system. Diversion of revenue or traffic shall not itself be sufficient to support such a finding. The routes and services of affiliates and subsidiaries of protestant shall be considered part of protestant's system for this purpose.

(b) Evidence that applicant cannot meet the statutory fitness criteria.

(c) Legal argument (optional).

(d) Verification.

(e) Certificate of service.

(f) Request for oral hearing (optional).

§ 1160.46 Protestant's rebuttal—passenger public interest applications only.

(a) When a protestant has protested an application on public interest grounds as provided under § 1160.4(b), and an applicant has replied to the public interest arguments under § 1160.11(b), the protestant may file a rebuttal statement within 70 days of the "ICC Register" publication.

(b) The rebuttal statement may not contain new evidence. It shall only rebut or further explain matters previously raised.

(c) The rebuttal statement and separate legal argument by counsel need not be notarized or verified. Protestant understands that the oath in the protest applies to all evidence submitted in the application.

§ 1160.47 Factual evidence format for protests in intrastate passenger applications under 49 U.S.C. 10922(c)(2)(A).

Protestant must submit this information in separately numbered paragraphs:

(a) Evidence to establish that the intrastate service would directly compete with a commuter bus operation, and that the competition would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

(b) A summary, description, or copy of the specific commuter authorities in conflict with that sought in the application, if pertinent.

(c) Information to demonstrate: that the proposed service is directly competitive with a commuter bus service, that the proposed service will adversely affect commuter bus service in a significant manner, and the degree to which all commuter bus services in the area where the competing service would be performed would be adversely affected.

(d) Evidence that applicant is not fit, willing, or able under the statutory fitness criteria.

(e) Legal argument (optional).

§ 1160.48 Protestant's rebuttal—intrastate passenger applications under 49 U.S.C. 10922(c)(2)(A) only.

If the protestant has filed a protest under § 1160.4(c), and applicant has replied to the commuter operations arguments under § 1160.11(b), protestant may file a rebuttal statement at the Commission within 35 days after publication in the "ICC Register". The rebuttal statement shall contain no new evidence, but shall only rebut or further explain matters previously raised concerning commuter operations. The rebuttal need not be verified.

§ 1160.49 Factual evidence format (except fitness only, passenger public interest, and passenger intrastate applications).

Protestant must submit this information in separately numbered paragraphs:

(a) A summary, description or copy of the specific authorities in conflict with that sought in the application. Protests containing copies of authority or authority abstracts which are more than 5 pages in length may be rejected.

(b) A description of the type and amount of equipment and facilities available to meet the avowed purpose of the application.

(c) A description of present operations that pertain to the application, including a description of the specific services provided to those supporting the application or within the same territory.

(d) Adverse impacts on its business generally and on the public, such as:

(1) Need to close terminals or other facilities;

(2) Number of employees that would be furloughed or dismissed;

(3) Resulting imbalance or inefficiencies caused to its operations.

(4) Effects on fuel efficiency; or

(5) Inability to continue its existing service to the public due to a reduction in total business, or loss of essential services that would not be replaced, or other factors.

(e) Evidence that applicant is not fit, willing, or able to comply with the appropriate statutes or regulations governing its activities.

(f) Legal or other argument (optional).

(g) Verification.

(h) Certificate of service.

(i) Any request for oral hearing.

Subpart C—General Rules Governing the Application Process

§ 1160.60 Applicable Rules.

Generally, all application proceedings are governed by the Commission's Rules of Practice at 49 CFR Part 1100 *et seq.*, except as designated below.

§ 1160.61 Contacting another party.

When a person wishes to contact a party or serve a pleading or letter on that party, it shall do so through its representative. The phone number and address of applicant's representative shall be listed in the "ICC Register".

§ 1160.62 Serving copies of pleadings.

(a) An applicant must serve all pleadings and letters on the Commission and all known participants in the proceeding, except that a reply to a motion need only be served on the moving party.

(b) A protestant need serve only the Commission and applicant with pleadings or letters.

§ 1160.63 Replies to motions.

Replies to motions filed under these rules are due within 10 days of the date the motion is filed at the Commission.

§ 1160.64 Requesting oral hearing.

(a) If an applicant or protestant believes that a proceeding should be orally heard, the person may request an oral hearing.

(b) The request shall specifically state the evidence that would be presented, the reason why the evidence is material to determine the merits of the proceeding, why an oral hearing with cross-examination is necessary to bring it out, and what evidence already in the record would be contravened (with specific page reference).

(c) The Commission intends to assign matters for oral hearing only where use of modified procedures would prejudice a party, material issues of decisional fact cannot adequately be resolved without an oral hearing, or assignment of an application for oral hearing is otherwise required by the public interest.

(d) Denial of an oral hearing request will not be made in writing where the denial is made prior to issuance of the initial decision. The request will be deemed denied when the proceeding is handled under the modified procedure.

§ 1160.65 Consolidation of applications.

(a) Applicants may request consolidation of applications. The request shall be made when the applications to be consolidated are filed. Requests for consolidation shall be made in writing to the Office of Proceedings, Motor Section.

(b) Requests to consolidate applications not currently filed shall only be considered to the extent that the applications are filed within 5 days of each other.

(c) Representatives of the consolidating applicants shall indicate their agreement with the consolidating either in the initial request or in their individual submissions. If mutual agreement has been reached in advance, one representative may indicate representatives' assent to the consolidation.

(d) The applications will be published in the "ICC Register" and their consolidation will be indicated. Protestants may file a single protest which will apply to all the proceedings.

§ 1160.66 Petition to clarify or interpret formally an operating authority.

(a) A person seeking to clarify or interpret its operating authority shall file a petition under these rules.

(b) No application form need be used. Petitioner shall file its entire argument with the petition.

(c) Notice of the petition will be published in the "ICC Register". Petitioner may file a rebuttal to any opposing argument.

§ 1160.67 Withdrawal.

A protestant wishing to withdraw from a proceeding shall inform the Commission and applicant in writing.

PART 1162—TEMPORARY AUTHORITY (TA) AND EMERGENCY TEMPORARY AUTHORITY (ETA) PROCEDURES UNDER 49 U.S.C. 10928

5. The authority citation for Part 1162 would continue to read:

Authority: 49 U.S.C. 10321; 10928; 5 U.S.C. 559.

6. Section 1162.2(b) is proposed to be revised to read as follows:

§ 1162.2 Filing of applications.

* * * * *

(b) *How and where filed.* (1) Applicants for TA or ETA shall file Form OP–1 in accordance with the instructions accompanying that form. The envelope containing the form shall be clearly marked "ETA Application" and/or "TA Application."

(2) The signed original and one copy of each application and all supporting documents shall be filed with the Regional Office which has jurisdiction over applicant's point of domicile, or at such other location as the Commission may designate in special circumstances.

Note: Applicants for TA and/or ETA who have simultaneously filed for corresponding permanent authority on the same Form OP–1 must submit the original and one copy of the form to Commission Headquarters for processing the permanent licensing request and must submit 1 copy of the form to the appropriate Regional Office for processing the temporary authority request.

(3) Where an applicant for TA also has applied or will apply for corresponding ETA, the application shall include the statement: "An underlying ETA seeks _____ days authority" in its application. Applicant should also include the "R" docket number of the ETA, if known.

* * * * *

7. Section 1162.2(c) is proposed to be revised to read as follows:

§ 1162.2 Filing of applications.

* * * * *

(c) *Filing fees.* A filing fee as designated at 49 CFR 1002.2 shall accompany each TA and ETA application. Method of payment options are set forth on the fees schedule that accompanies Form OP–1.

Note: TA and ETA applicants who have concurrently filed for corresponding permanent operating authority on the same Form OP–1 should separately submit the TA and/or ETA filing fee(s) to the Regional Office processing such applications.

* * * * *

8. Section 1162.2(d) is proposed to be revised to read as follows:

§ 1162.2 Filing of applications.

* * * * *

(d) *Supporting statements.* Each application shall be accompanied by "Certificate(s) of Support" designed to establish an immediate need for service which cannot be met by existing carriers. Such supporting evidence should follow the format and contain all the information prescribed on the "Certificate of Support" portion of Form OP–1.

9. Section 1162.2(e)(3) is proposed to be revised to read as follows:

§ 1162.2 Filing of applications.

(e) * * *

(3) The filing of ETA applications by telegram or telephone shall be acceptable in exigent circumstances. Confirmation shall be made by filing Form OP–1 (with the "Certificate(s) of Support") within 10 working days from the filing by telegram or telephone.

* * * * *

PART 1168—[REMOVED]

10. Part 1168 is proposed to be removed.

[Editorial Note: The following Appendixes will not appear in the Code of Federal Regulations]

Appendix A—Instructions for Completing Application Form OP–1

Please read the instructions before completing the application form. Before mailing the completed application form, see the check list on page _____ of the instructions. Retain the instructions and a copy of the application for future reference.

How the ICC Processes Applications

Permanent and Temporary Authority

- When sufficient evidence is included in a permanent (PA) or temporary authority (TA) application this Commission assigns it a docket number and publishes a summary of the request in the "ICC Register." [Other sections of these Instructions describe the types of evidence that must be submitted.]
- If no protest is filed following notice (45 days for PA and 15 days for TA) the application is approved. An applicant receiving authority for the first time will be sent a letter-notice (not the actual authority document) informing it to comply with applicable prelicensing requirements. A carrier already possessing authority will be forwarded its new authority automatically.
- Most applications are unopposed. However, if there is opposition, you must be served with a copy of the protest(s), and you have the right to reply. If your application is protested, contact the ICC immediately for instructions on procedures and rules governing opposed applications.

Emergency Temporary Authority

- The ICC does not publish summaries of emergency temporary authority (ETA) filings. Instead, the ICC's regional decisional body reviews the request and notifies you of its decision by telephone, usually within 1 week. No written ICC decision is issued.

General Instructions

- Definitions of important terms used in this application are on page _____ of the Instructions.
- You can use this form to apply for motor or water carrier, property broker, and household goods freight forwarder authority. [Check the appropriate box(es) in Part I of the application.]

- You can use this form to request emergency temporary authority (motor carrier applicants only), temporary authority (motor and water carrier applicants), permanent authority (all applicants), or any combination. [Check the appropriate box(es) in Part I.]
- You can file a single application to request more than one type of operating authority.
- This form consists of Parts I through VI. You must complete Parts I and VI of the form. If you seek permanent motor property, water carrier, or property broker authority, you also must complete Part II; if you seek permanent motor passenger carrier authority, you also must complete Part III; and if you seek temporary or emergency temporary operating authority, you also must complete Part IV. For information about the Part V "Certificate of Support" portion of this application, see the "Supporting Evidence" section of the Instructions.
- Your application must be typed or printed in ink.
- You may continue responses on a separate sheet of paper if needed. Identify each answer by the application form page and item number.

Filing Fees

- Filing fees are adjusted annually. Refer to the enclosed schedule for a list of current fees.
- Note to TA and ETA applicants who are simultaneously filing a permanent licensing application: You must separately submit your applications and payment for the temporary portion(s) of your service requests to the regional office processing your TA or ETA application. Commission Headquarters will accept only permanent authority applications and the fees for the permanent portion(s) of the authority requests.

How to Describe Service

- The Commission favors the broad service descriptions listed in Parts II and III of the application form. In most cases, you will be able to complete this form by checking the box in Part II or III describing the service you seek to provide and by completing Parts I and VI of the form.
- If you want authority not defined by one of the broad service descriptions provided in the application form, you also must complete Part II, Item 14 [property carriers] or Part III, Item 9 [passenger carriers].
- If you want authority to transport specific named commodities or limited classes of commodities, you must provide information demonstrating that the requested commodity authority is not unduly restrictive. This evidence should be submitted on a separate sheet of paper attached to the form. Further information concerning acceptable commodity descriptions is availability by contacting the ICC Office of Public Assistance (202) 275–7597.
- Territorial service descriptions may not be defined in terms smaller than a county.
- If you develop your own service description, you must use the following format to define the proposed operations:

Sample Service Descriptions

To operate as a common carrier by motor vehicle, in interstate or foreign commerce transporting commodities in bulk, between points in KY, NC, TN, VA, and WV.

To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, transporting food and related products, between points in the United States, under continuing contracts with shippers or receivers of food and related products.

Supporting Evidence

- Applicants for emergency temporary authority or temporary authority must submit supporting shipper evidence on the Part V "Certificate of Support" portion of the form to establish that there is or soon will be an immediate transportation need that reasonably cannot be met by existing carrier service.
- Applicants for water common carrier authority must submit supporting witness evidence on the Part V "Certificate of Support" portion of the form, or evidence on your own behalf in a statement attached to the application form to establish that the proposed service is or will be required by the present or future public convenience and necessity.
- All other applicants may submit the Part V "Certificate(s) of Support" if you wish to enhance and expand upon your service request.
- If you want any authority to transport classes A and B explosives, bulk commodities, or household goods, or to provide service in Alaska and/or Hawaii, you must include additional evidence that specifically addresses your fitness, willingness, and ability to provide the service and discusses how the proposed operations will be responsive to a public (common carrier) or shipper (contract carrier) need for service. These issues may be addressed on a separate sheet of paper appended to your application. Also, you are strongly encouraged to submit evidence from supporting witnesses on the Part V "Certificate(s) of Support" portion of the form. Supporting evidence from prospective shippers is particularly valuable in establishing the manner in which you will meet the public or shipper needs for these specialized service categories.
- All evidence offered in support of the application should relate specifically to the authority requested (for example, make reference to a need for service involving classes A and B explosives, bulk commodities, household goods, and/or Alaska and/or Hawaii).
- You may submit more than one "Certificate of Support."

Safety Fitness Evidence

- You must provide evidence of your most current DOT safety rating, or, if unrated, certify your willingness to comply with all applicable DOT safety rules. Complete "Safety Evidence," Part I, p. —.
- If you have been assigned an "unsatisfactory" safety fitness rating by DOT, or if you have been assigned a "conditional" safety fitness rating and intend to transport passengers or hazardous materials, do not file for new authority. Your application will not be accepted until you submit evidence of an improved safety fitness rating.
- If you are an applicant for motor property authority, do not seek to transport hazardous commodities, and have been assigned a "conditional" safety fitness rating by DOT, you must provide specific evidence concerning the measures you have taken to bring your operations into full compliance with DOT safety requirements and to correct each deficiency cited in the safety audit upon which your conditional rating was based. You also must submit a copy of your request to DOT seeking a re-audit of your operations. These issues must be addressed on a separate sheet of paper attached to your application. Upon review of this evidence, the Commission may elect to issue the sought authority subject to a non-renewable 1-year term limitation. "Hazardous materials" will be expressly excluded from the commodity descriptions of such limited term authority.

Prelicensing Requirements

Insurance

- If you are seeking authority as a motor carrier, broker, or a household goods

freight forwarder that provides a pickup or delivery service directly or by using a local delivery service under your control, before your newly approved operations may begin you must have on file with the ICC proof of adequate insurance, as follows:

- Liability insurance for motor carriers and household goods freight forwarders described above—you must file evidence with the Commission that you maintain appropriate levels of bodily injury and property damage (BI & PD) insurance—filed on ICC Form BMC-91 or BMC-91X. (Refer to "Insurance Information" in Part I, p. ——.)
- Cargo insurance for motor common carriers and household goods freight forwarders, described above—you also must file evidence with the Commission that you maintain minimum levels of cargo insurance—filed on ICC Form BMC-34: (1) $5,000—for loss or damage to property carried on any one motor vehicle; and (2) $10,000—for loss of or damage to or aggregate of losses of or damages to property occurring at any one time and place.
- Property brokers—before beginning operations, you must file evidence with the Commission of a broker surety bond—filed on ICC Form BMC-84—or trust fund agreement—filed on ICC Form BMC-85—in the amount of $10,000.

Note: No authority document will be issued until all required insurance forms are on file with the ICC. It is your responsibility to contact your insurance company(ies) and to follow through to guarantee all required filings are received by this Commission. The ICC does not furnish insurance forms to applicants. Insurance companies print the forms and are familiar with the ICC's insurance filing requirements.

Legal Process Agents

- All motor and water carriers and property brokers—you must designate an agent in each State where you will conduct operations (or for property brokers, each State where your offices will be located) who will accept legal filings on your behalf (known as process agents)—filed on ICC Form BOC-3.

Tariffs

- Motor common carriers—you must file tariffs with the Commission listing prices for and specifying terms of the services you offer.

Note: Contract carriers must have written contracts with the shippers they serve, but the contracts need not be filed with the Commission.

- ETA applicants—your applications must include tariffs and be filed with the appropriate Commission regional office.
- All other motor common carrier applicants—your tariffs are filed with the ICC Headquarters office in Washington, DC.

State Notification

- All applicants—before beginning new or expanded interstate operations, you must contact the appropriate regulatory agencies in every State in and through which you will conduct operations to obtain information regarding various State rules applicable to interstate authorities. It is your responsibility to comply with registration, fuel tax, and all other State regulations and procedures.

Passnger Carrier Funding Recipients

- Applicants for passenger carrier authority must specify the nature of governmental financial assistance you receive, if any, by designating in Part III your status, defined as only one of the following:

Public recipient—Any State; any municipality or other political subdivision of a State; any public agency or instrumentality of such entities of one or more States; an Indian tribe; and any corporation, board or other person owned or controlled by such entities or owned by, controlled by, or under common control with such a corporation, board, or person which is receiving or has ever received governmental financial assistance for the purchase or operation of any bus currently in its fleet.

Private recipient—Any applicant, other than a public recipient, that is receiving or has ever received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus currently in its fleet.

Nonrecipient—Any applicant that is not receiving, nor using equipment acquired with, governmental financial assistance.

Filing the Application and Related Materials

- TA and/or ETA applicants not filing for corresponding permanent authority—you must send the original and one copy of your applications to the ICC regional office serving the State in which your business is headquartered.
- TA and/or ETA applicants who simultaneously file for permanent authority—you must send the original and one copy of your application to ICC Headquarters and two copies to the appropriate regional office.
- All other applicants—you must send an original and one copy to ICC Headquarters and one copy to the appropriate ICC regional office.

Mailing Addresses for Applications

- *Headquarters*. Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.
- *Eastern Region* [includes AL, CT, DE, DC, FL, GA, KY, ME, MD, MA, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV]. Interstate Commerce Commission, 3535 Market Street, Room 16400, Philadelphia, PA 19104.
- *Central Region* [includes AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, ND, OK, SD, TX, WI]. Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago IL, 60604.
- *Western Region* (includes AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY]. Interstate Commerce Commission, 211 Main Street, Suite 500, San Francisco, CA 94105.
- All insurance and process agent filings (except for motor carrier ETA filings) should be addressed to the ICC, Office of the Secretary, Insurance Unit, Washington, DC 20423.

Note: ETA applicants—you must include evidence of insurance and process agent information with your application. *See* Part IV, p. ——of the application form.)

- Tariffs, and any future supplements, should be mailed to the ICC, Bureau of Traffic, Tariff Examining Branch, Washington, DC 20423.
- Intrastate motor passenger applicants—you also must send a description of the proposed service to the State transportation regulatory body of the State(s) in which the operations described in the application will be performed.

Transportation Terms

Applicant—the person or company applying for authority to provide transportation in interstate or foreign commerce or to provide property brokerage service.

Applicant's Representative—the person filing the application. The representative may be the applicant, any officer or authorized employee of the company, or a person licensed to practice before the ICC.

Common Carriage—transportation offered to the general public using prices and services named in tariffs on file at the ICC.

Contract Carriage—transportation performed under written contracts with particular shippers.

Contracts—written agreements between a contract carrier and each shipper with whom the carrier does business, covering a specific time period or series of movements and all negotiated terms and charges for services rendered. Unlike tariffs, contracts are not subject to public review and do not have to be filed with the ICC.

Emergency Temporary Authority (ETA)—motor carrier authority lasting a maximum of 120 days to meet an immediate need that cannot be met by existing carriers.

Household Goods Freight Forwarding—the arrangement, assembly, and/or consolidation for transportation of household goods where the actual movement is performed by ICC licensed carriers. Forwarders arrange with the carriers for the actual transportation; they do not do it themselves. Freight forwarders issue bills of lading to shippers and, as common carriers, are responsible for loss of or damage to the goods.

Irregular Route Authority—authority that is not restricted to particular roads or routes.

Permanent Authority—authority with no time limit.

Property Brokerage—the arrangement for transportation of goods where the actual movement is performed by ICC licensed motor carriers. As contrasted with forwarders, brokers assume no responsibility for loss of or damage to the property being transported.

Regular Route Authority—authority to perform service only over named roads.

Restriction Removal—an application in which a motor property or passenger carrier requests that its existing authority be broadened by the elimination of certain or all operating restrictions in its current service description.

Tariffs—public documents filed by common carriers that set out the terms of and prices for service.

Temporary Authority—authority, lasting a maximum of 270 days for motor and 180 days for water operations, to provide service that cannot be performed by existing carriers. If a permanent authority application also is filed, the temporary authority does not expire until the permanent authority is acted on.

Water Carrier Exemption—an application in which the Commission exempts from its jurisdiction the transportation of certain commodities by water contract carrier upon a finding that their transportation by water is not actually and substantially competitive with rail or motor transportation, either because of the inherent nature of the involved commodities, their special equipment requirements, or their shipment in bulk.

Additional Assistance

For additional information about obtaining authority, you may seek assistance in each of the following areas from:

Completing the Application

Permanent authority applications: Office of Public Assistance, Interstate Commerce Commission, Washington, DC 20423, (202) 275–7597.

TA and ETA applications: ICC regional offices processing the request for authority (addresses listed above):

Eastern Region—(215) 596–4040
Central Region—(312) 353–6204
Western Region—(415) 975–7125

Status of Filed Applications

Permanent—authority applications—ICC, Office of Proceedings, Case Tracking Unit, (202) 275–7022 or 275–7023.

Temporary or *emergency temporary* authority applications—ICC regional office processing application(s). Addresses and telephone numbers listed above.

Levels of Insurance

ICC, Office of Compliance and Consumer Assistance, Insurance Branch, (202) 275–0854.

Status of Insurance Filings

ICC, Office of the Secretary, Insurance Unit, (202) 275–0783.

Tariff Filings

ICC, Public Assistance Unit, Bureau of Traffic, (202) 275–7462.

DOT Safety Rating

Write to Director, Motor Carrier Safety Field Operations, Federal Highway Administration, United States Department of Transportation, Washington, DC 20590, for information concerning a carrier's safety fitness rating or to obtain a safety audit.

Check List

Before mailing your application, check to be sure that you have:

- Completed all necessary sections, including the oath and certificate of service in Part I.
- Enclosed the correct number of copies of the application form and addressed them to the proper place.
- Enclosed the correct fee(s).
- Attached supplemental documents to the form, where applicable.
- Marked the word(s) "APPLICATION," "TA APPLICATION," "ETA APPLICATION," "90 DAY INTRASTATE PASSENGER APPLICATION," and/or "RESTRICTION REMOVAL APPLICATION," as appropriate, on the envelope.
- Placed sufficient postage on the envelope(s).

Appendix B—Interstate Commerce Commission; Authority Application

Approved by OMB 3120–0047 Expires _____

Form OP–1 (Revised _____)
Supercedes Form OP–1 (12/83) and Form OCCA–95 (8/84).

Mail this form only after you have compared the application with the check list on page ____ of the Instructions.

For commission use only:
Docket No. _____
Filed _____
Fee No. _____

Paperwork Burden

It is estimated that an average of 4 burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission, and to the Office of Management and Budget, Paperwork Reduction Project, (OMB No. 3120–0079), Washington, DC 20503.

Part I—General Information to be Completed by all Applicants

Applicant _____
(Legal Name)
Doing Business As _____
(Trade Name)
Business Address _____
(Street or P.O. Box)

_____
(City)

_____
(State)

_____
(Zip Code)

_____
(Phone Number)
Mailing Address if Different from Above ——
(Street or P.O. Box)

_____
(City)

_____

(State)

(Zip Code)

(Phone Number)

Form of business (Check only one):
[ ] Corporation. State of incorporation——
[ ] Partnership. Identify partners ——

[ ] Sole proprietorship. Name of individual

If you have been issued a D.O.T. census number, provide it here: ——

Do you now hold, or have an application pending for, authority from this Commission? [ ] Yes [ ] No
If Yes, Identify The Lead Docket Number Or Numbers: ——

In this application, do you seek to haul hazardous materials? [ ] Yes [ ] No
Do you currently transport hazardous materials? [ ] Yes [ ] No
Applicant seeks to operate as (Check one or more):
[ ] Motor property common carrier
[ ] Motor passenger common carrier
[ ] Motor property contract carrier
[ ] Motor passenger contract carrier
[ ] Household goods freight forwarder
[ ] Property broker
[ ] Water common carrier
[ ] Water contract carrier
[ ] Water carrier exemption
Type of application (Check one or more):
[ ] Permanent authority
[ ] Emergency temporary authority (ETA)
[ ] Temporary authority (TA)
[ ] Restriction removal
Representative: Person to whom inquiries may be made (applicant or legal representative)

(Name

(Street or P.O. Box)

(City)

(State)

(Zip Code)

(Phone Number)

Safety Evidence

(a) Applicants with DOT safety ratings:
Current DOT safety fitness rating: ——

Date of DOT safety compliance review upon which this rating is based:——

Note: If you currently have a DOT safety rating other than "satisfactory," consult the "Safety Fitness Evidence" information on page ___ of the Instructions.

(b) Applicants without DOT safety ratings:

I certify that I have access to and am familiar with all applicable regulations of the U.S. Department of Transportation (DOT) relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials, and I will comply with these regulations.

[ ] Yes (This box must be checked.)

Insurance Information

Note: This section must be completed by all motor carrier applicants. The amounts in parentheses represent the minimum amount of bodily injury and property damage insurance you must maintain. *See* the Instructions for further information about other insurance requirements.

Property motor applicants (check one or more):

(1) Will use only vehicles having Gross Vehicle Weight Ratings (GVWR) of 10,000 pounds or less; *and*

(a) ___ Transports no hazardous material ___ ($300,000), or

(b) ___ Transports any Class A or B explosives ___ or poison gas or highway controlled radioactive materials ($5,000,000).

(2) Will use vehicles with GVWR in excess of 10,000 pounds to transport

(a) ___ Non-hazardous commodities ($750,000).

(b) ___ Hazardous materials other than those described in (c) ($1,000,000).

(c) ___ Hazardous substances (*See* 49 CFR 1043.2; basically, commodities requiring DOT placards.) ($5,000,000).

Passenger motor applicants (check one).—Will use vehicles with seating capacities of:

(1) 16 or more ——— ($5,000,000)

(2) Less than 16 *only* ——— ($1,500,000).

Note: If any vehicle accommodates 16 or more passengers, the larger insurance amount applies.

Common Control

Relationship between applicant, any person having an interest in applicant, and/or any other I.S.C. regulated transportation company (for example, percentage stock ownership, loans, voting, or management arangements). Provide MC numbers of involved ICC regulated transportation interests.

———

———

If no common control relationship, check here [ ]. Otherwise, check the appropriate box below.

(a) [ ] The Commission approved the common control relationship in Docket No. MC–F–———

(b) [ ] The aggregate gross (interstate) operating revenues of the carriers were not more than $2 million during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties in the transaction.

(c) [ ] Applicant has filed or is filing concurrently an application for approval of common control or a petition seeking exemption from the requirements of 49 U.S.C. 11343. Provide docket number (if known):

———

Miscellaneous

(a) I certify that the applicant in this proceeding is not domiciled in Mexico. Moreover, the applicant is not owned by or controlled by persons of that country.
[ ] Yes. [This box must be checked.]

(b) Does the applicant hold a certificate of registration from this Commission as a single-State operator?

Note: This refers to authority issued by the ICC; not intrastate authority issued by a State regulatory body.

[ ] Yes [ ] No
If yes, identify authority number and State: ———.

Applicant's Oath

Must be completed by all applicants.

I, ———, (name and title of witness) verify under penalty of perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to $10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to $2,000 or imprisonment up to 5 years for each offense.
(Signature and Date) ———

Certificate of Service

Must be completed by all applicants.

I certify that I have delivered a copy of this application, in person or by mail, to the Regional Director of the

Commission's Office of Compliance and Consumer Assistance for the Region in which the applicant has its headquarters.
(Signature and Date) _____

After Completing Part I

Applicants for	Turn to and complete
Motor property carrier, water carrier, property broker, and household goods freight forwarder authority.	Part II and Part VI
Motor passenger carrier authority	Part III and Part VI
Temporary and emergency temporary authority.	Part IV and Part VI

Note: The Part V "Certificate of Support" is optional for motor carrier permanent authority applicants. The "Certificate" must be submitted by applicants for emergency temporary, temporary, and water common carrier authority. Certain other applicants are strongly encouraged to submit supporting evidence as explained in the "Supporting Evidence" portion of the Instructions.

Part II—Motor Property Carrier, Water Carrier, Property Broker, and Household Goods Freight Forwarder Applications

Check appropriate box(es) for type(s) of authority you seek, then turn to Part VI.

(1) [ ] Motor common carrier of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii).

(2) [ ] Motor contract carrier of general commodities (except classes and A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii), under continuing contract(s) with commercial shippers or receivers of such commodities. Note: If you have checked Item 2, you also must complete Item 15.

(3) [ ] Motor contract carrier of household goods, between points in the United States (except Alaska and Hawaii), under continuing contract(s) with commercial shippers of household goods.

If you have checked Item 3, complete one or both box(es) below, as applicable:

[ ] Contracting shippers have one or more of the distinct needs delineated in No. MC-1745 (Sub-No. 17), *Interstate Van Lines, Inc., Extension—Household Goods,* _____ I.C.C.2d _____ (1988).

Describe briefly the distinct need(s):
_____
_____
_____

[ ] Contracts provide for assignment of one or more vehicles for the exclusive use of each such shipper in the manner specified in No. MC-1745 (Sub-No. 17), *Interstate Van Lines, Inc., Extension—Household Goods,* _____ I.C.C.2d _____ (1988).

(4) [ ] Motor carrier broker of general commodities (except household goods), between points in the United States.

(5) [ ] Motor carrier broker of household goods between points in the United States.

(6) [ ] Freight forwarder of household goods, unaccompanied baggage, or used automobiles, between points in the United States.

(7) [ ] Motor common carrier of property authority to serve any community not regularly served by a certificated motor common carrier of property, transporting general commodities between the specified community(ies), on the one hand, and, on the other, points in the United States.

(8) [ ] Motor common carrier of property authority to provide service as a direct substitute for abandonment of all rail service in a community, transporting general commodities, between the abandoned community(ies), on the one hand, and, on the other, points in the United States.

Note: If you have checked Item (7) or (8) above:

Identify community(ies). _____
Describe service. _____
_____

(9) [ ] Motor common carrier of property transportation for the U.S. Government of general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the United States.

(10) [ ] Motor common carrier of property transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States.

(11) [ ] Motor common or [ ] motor contract carrier of property transportation of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers, between points in the United States, if such transportation is provided when the owner is in the vehicle (except in emergency situations) and if the tonnage transported annually under this authority does not exceed the motor vehicle's tonnage of exempt commodities transported annually.

(12) [ ] Transportation for the U.S. Government of used household goods incidental to a pack-and-crate service on behalf of the Department of Defense, between points in the United States.

(13) [ ] Water common or [ ] water contract carrier authority or [ ] Water carrier exemption.

Describe service: _____
_____
_____
_____

Note: If you have checked Item 13, you must make the following CZMA Certification:

I certify that I have filed a notice of this application with the appropriate Coastal Zone Management Program agency of each State in which I propose to operate.

[ ] Yes. [This box must be checked by all water carrier applicants.]

(14) [ ] Other. [If you seek authority that differs from the above options, please describe in the space below, for example, applications involving water carriers, restriction removal, specified commodities in lieu of general commodities, bulk commodities, service to limited geographic areas (less than 48-State authority), or service to Alaska or Hawaii.]

Note: If you seek authority to transport specific named commodities or limited classes of commodities, you must submit on a separate sheet of paper, attached to this form, evidence demonstrating that the requested commodity authority is not unduly restrictive. See the "How to Describe Service" section in the Instructions.

If you checked Item 14, you must complete this service description.

To operate as a _____ (type of transportation) in interstate or foreign commerce, transporting _____ (commodity or commodities) between _____ (territory).

If applicable:
under continuing contract(s) with _____ (contracting shipper or class of shippers).

Note: You must furnish a map that clearly identifies and depicts any regular route involved in the above service description.

(15) Contract carrier service—If you have checked Item 14 in Part II and seek contract carrier authority to transport specified commodities in lieu of general commodities, you must complete Item 15(a) and/or 15(b). If you have checked

Item 2 in Part II and seek industrywide general commodities contract carrier authority, you must check Item 15(a).

As a contract carrier, I will: [Complete the box(es) indicating how you will meet the statutory requirement for contract carriage.]

(15)(a) [ ] Furnish the transportation service through the assignment of motor vehicles for a continuing period of time for the exclusive use of each person served; and/or

(15)(b) [ ] Furnish the transportation service designed to meet the distinct need(s) of each contracting shipper. Describe briefly the distinct need(s):

_____

_____

_____

_____

_____

Part III—Passenger Applications

Applicant is a: [Check the appropriate box. Refer to the "Passenger Carrier Funding Recipients" section of the Instructions.]

[ ] Public Recipient
[ ] Nonrecipient
[ ] Private Recipient

Type Service Applicant Wishes to Provide

Check appropriate box(es) and provide information, then turn to Part VI.

Note: You must furnish a map clearly identifying each regular route involved in your passenger carrier service description(s). Also, you must attach on a separate sheet a narrative description of each regular route. If you seek authority as a passenger contract carrier, proceed to Item 5.

(1) [ ] Charter and special transportation.
Describe territory. _____

_____

_____

(2) [ ] Service over regular routes in interstate or foreign commerce.

(3) [ ] Service over regular routes in intrastate commerce under 49 U.S.C. 10922(c)(2)(A) on a route over which applicant had authority as of November 19, 1982.

Note: You must attach to your application a copy of the interstate authority or authorities issued on or before the November 19, 1982, authorizing the transportation of passengers on the routes over which you seek to obtain intrastate authority. To enable expedited action, you must mark the envelope and the application in the upper right corner of the front page "90-Day Intrastate Passenger Application."

(4) [ ] Service over regular routes in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) on a route over which applicant has been or will be granted authority in interstate commerce after November 19, 1982.

Note: You must attach to your application a copy of the interstate authority or authorities granted after November 19, 1982, authorizing the transportation of passengers on the routes over which you seek to obtain intrastate authority.

If you have not been granted or do not have pending an application for the underlying interstate, regular-route authority over which the intrastate operations are to be performed, you may file a request for such intrastate authority only if you request the underlying interstate, regular-route transportation in the same application. A denial or rejection of the underlying interstate application will require rejection of the request to provide intrastate transportation.

(5) [ ] Service as a contract carrier between points in the United States (except Alaska and Hawaii), under continuing contract(s) with

_____

(Name contracting persons)

_____

_____

(6) [ ] Service to any community not regularly served by a certificated motor common carrier of passengers.

(7) [ ] Service as a direct substitute for the abandonment or discontinuance of all rail and commercial air passenger service in a community.

If you have checked Item (6) or (7) above:
Identify community(ies). _____
Describe service. _____

_____

_____

(8) [ ] Service to any community where the only interstate motor common carrier of passengers has applied under 49 U.S.C. 10925(c) to discontinue such interstate service or has applied under 49 U.S.C. 10935 to reduce intrastate service to less than one trip per day (excluding Saturdays and Sundays).

Note: If you have checked Item (8), you must complete A and B below.

A. Provide a copy of, or appropriate reference to, the existing carrier's application to the ICC for discontinuance or reduction of service.

_____

B. Service to be provided. _____

_____

_____

(9) [ ] Other. [If you seek authority that is not covered by Items (1)–(8), please describe in the space below (for example, restriction removal).]

_____

_____

_____

_____

Part IV—Emergency Temporary Authority and Temporary Authority Applications

Complete this information concerning your proposed temporary operations; ensure that Part V "Certificate of Support" has been completed; then turn to Part VI.

A. To be completed by applicants for emergency temporary and/or temporary authority:

Description of authority requested. (*Note:* To the extent feasible, if you also are seeking permanent authority, you should conform the proposed temporary service to that sought in your permanent licensing application.)

To operate as a _____, (type of transportation) in interstate or foreign commerce, transporting _____ (commodity or commodities) between _____ (territory).

If applicable:

Under continuing contract(s) with _____, (contracting shipper or class of shippers)

I understand that the filing of this application does not, in itself, constitute authority to operate and that a grant of this authority as requested does not mean that corresponding permanent authority will be granted.

[ ] Yes. [This box must be checked.]

B. To be completed by applicants for emergency temporary authority:

(a) Enter date the emergency temporary authority is requested to become effective:

_____

(b) Is an automatic extension beyond 30 days requested?

[ ] Yes [ ] No

Note: ETA applications will not be processed unless they include evidence of insurance and the names of persons upon whom legal process may be served.

I understand that the filing of this application does not, in itself, constitute authority to operate and that a grant of this authority as requested does not mean that corresponding permanent authority will be granted.

[ ] Yes. [This box must be checked.]

B. To be completed by applicants for emergency temporary authority:

(a) Enter date the emergency temporary authority is requested to become effective:

(b) Is an automatic extension beyond 30 days requested?

[ ] Yes [ ] No

Note: ETA applications will not be processed unless they include evidence of insurance and the names of persons upon whom legal process may be served.

Part V—Certificate of Support

(1) Name, address, and title of supporting witness.

(2) Describe the geographic movement (actual or future) of the involved traffic in terms of origin(s) and destination(s); also provide representative traffic volumes and frequency of movements. Is service sought in [ ] Alaska [ ] Hawaii? If so, you must describe service needs involving such State(s).

(3) List actual commodities that may be transported. If the movement of classes A and B explosives, household goods, or commodities in bulk is sought, you must describe service needs involving such commodities (for example, specialized equipment).

(4) If you will be served by applicant under contract, describe any distinct service needs or equipment dedication requirements.

(5) If supporting an application for emergency temporary authority or temporary authority, please answer the following:

(a) Volume of traffic that will be tendered, frequency of movement, and how transported in the past:

(b) How soon must service be provided and reasons fo such a time requirement:

(c) How long will need for service likely continue:

(d) The circumstances that create an immediate need for service:

(e) Consequences if service is not made available:

Supporting Witness' Oath

I, _____, (name and title of witness) verify under penalty of perjury, under the laws of the United States of America, that all information supplied is true and correct. Further, I certify that I am qualified and authorized to file this certificate of support. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to $10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to $2,000 or imprisonment up to 5 years for each offense.

(Signature and Date)

Part VI—Filing Fee Information

[Please refer to enclosed fee schedule.]

Indicate amount $_____ and method of payment:

[ ] Check or [ ] money order payable to Secretary Interstate Commerce Commission.

[ ] Visa or [ ] Master Card.

Credit Card No. _____

Expiration Date: _____

Signature: _____

Date: _____

Fee Schedule

- An application for motor carrier common or contract carrier; passenger or property authority; property broker authority, motor carrier certificate of registration including a certificate of registration; water carrier operating authority or exemption; or household goods freight forwarder authority, $200
- A fitness only application for motor common or contract owner operator authority to transport food and related products, $100
- An application to remove restrictions or broaden unduly narrow authority, $200
- An application for motor carrier emergency temporary authority, $70
- An application for motor carrier or water carrier temporary authority, $90

Fee Policy

- Fees must be payable to the Interstate Commerce Commission by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or by approved credit card.
- Separate fees are required for permanent authority requests, emergency temporary authority requests, or temporary authority requests. If an applicant requests multiple types of permanent authority in one application (for example common, contract, and broker authority), only one fee is required.
- The filing fee for a permanent authority application must be sent with the application to Washington, DC.
- The filing fees for an emergency temporary application and/or temporary application must be sent with the application to the appropriate regional office.
- After an application is accepted the filing fee is not refundable.
- The Commission reserves the right to discontinue processing any application for which a check is returned because of insufficient funds. Such an application will be stayed until the fee is paid in full, in good funds.

[FR Doc. 89-11566 Filed 5-12-89; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 54, No. 92
Monday, May 15, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-072]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Potato Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to Monsanto Agricultural Company, to allow the field testing in the State of Illinois of genetically engineered potato plants modified to express the coat protein genes of potato virus X and potato virus Y or the coat protein gene of potato leafroll virus. The assessment provides a basis for the conclusion that the field testing of these genetically engineered potato plants will not present a risk of introduction or dissemination of a plant pest and will not have any significant impact on the quality of the human environment. Based upon this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. James White, Biotechnologist, Biotechnology Permit Unit, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5940. For copies of the environmental assessment and finding of no significant impact, write Ms. Linda Gordon at this same address. The environmental assessment should be requested under accession number 89-030-04.

SUPPLEMENTARY INFORMATION:

The regulations in 7 CFR Part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced in the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

Monsanto Agricultural Company, St. Louis, Missouri, has submitted an application for a permit for release into the environment, to field test genetically engineered potato plants modified to express the coat protein genes of potato virus X and potato virus Y or the coat protein gene of potato leafroll virus.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the potato plant under the conditions described in the Monsanto Agricultural Company application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have any significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Monsanto, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS's finding of no significant impact are summarized below and are contained in the environmental assessment.

1. Genes encoding the viral coat proteins of potato virus X and potato virus Y or potato leafroll virus have been inserted into the potato chromosome. In nature, chromosomal genetic material can only be transferred to other sexually compatible plants by cross-pollination. In this field trial, the introduced gene cannot spread to other plants by cross-pollination because the potato plants are sterile.

2. Neither the viral coat protein genes themselves, nor their gene products, confer on potato any plant pest characteristics. Traits that lead to weediness in plants are polygenic traits and cannot be conferred by adding a single gene.

3. The expression of the viral coat protein genes does not provide the transformed potato plants with any measurable selective advantage over nontransformed potato in their ability to be disseminated or to become established in the environment.

4. The vector used to transfer the plant viral genes to the potato plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this experiment. The vector, although derived from a DNA sequence with known plant pest potential, has been disarmed; that is, genes that are necessary for producing plant disease have been deleted from the vector. The vector has been tested and shown to be nonpathogenic to any susceptible plant.

5. The vector agent, the bacterium that was used to deliver that vector DNA and the plant viral coat protein genes into the plant cell, has been shown to be eliminated and no longer associated with the transformed potato plants.

6. Horizontal movement of the introduced gene is not possible. The vector acts by delivering the gene to the plant genome (i.e., chromosomal DNA). The vector does not survive in the plants.

7. The field test site is small (less than 0.4 acre) and physically isolated by a surrounding area of cultivated land.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1)

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done at Washington, DC, this 9th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–11593 Filed 5–12–89; 8:45 am]

BILLING CODE 3410-34

[Docket No. 89–074]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Tomato Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to Monsanto Agricultural Company, to allow the field testing in the State of Illinois of genetically engineered tomato plants, modified to express the delta-endotoxin protein from *Bacillus thuringiensis* to enable the plants to produce a protein that is toxic to larval feeding of select lepidopteran insects. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tomato plants will not present a risk of introduction or dissemination of a plant and will not have any significant impact on the quality of the human environment. Based upon this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Sivramiah Shanthram, Biotechnologist, Biotechnology Permit Unit, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessment and finding of no significant impact, write Ms. Linda Gordon at this same address. The environmental assessment should be requested under accession number 89–047–04.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR Part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced in the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

Monsanto Agricultural Company, of Chesterfield, Missouri, has submitted an application for a permit for release into the environment, to field test genetically engineered tomato plants modified to express the delta-endotoxin protein from *Bacillus thuringiensis* to enable the plants to produce a protein that is toxic to larval feeding of select lepidopteran insects.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the tomato plant under the conditions described in the Monsanto Agricultural Company application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have any significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Monsanto Agricultural Company, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS's finding of no significant impact are summarized below and are contained in the environmental assessment.

1. An insecticidal gene *B. thuringiensis* var. *kurstaki* has been inserted into tomato chromosome in a way that would allow the biosynthesis of delta-endotoxin. In nature, genetic material contained in the chromosomes of tomato plants can only be transferred to another sexually compatible plant by cross-pollination and fertilization. In this field trial the introduced genes cannot spread to another plant by cross-pollination, because the field test plot is located at a sufficient distance from any sexually compatible plants with which these experimental tomato plants could cross-pollinate.

2. Neither the delta-endotoxin gene nor its polypeptide product confers on tomato any plant pest characteristics. *B. thuringiensis* var. *kurstaki* from which the delta-endotoxin gene was obtained is also not a plant pest.

3. The delta-endotoxin gene does not provide the transformed tomato plants with any measurable selective advantage over nontransformed tomato plants in its ability to be dispersed or to become established in the environment.

4. The vector used to transfer the delta-endotoxin gene to tomato plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this experiment. The vector, although derived from the DNA of a tumor inducing (Ri) plasmid with known plant pathogenic potential, has been disarmed; that is, genes that are necessary for pathogenicity have been removed from the vector. The vector has been tested and shown to be nonpathogenic to susceptible plants.

5. The vector agent used to deliver the chimeric vector DNA containing the delta-endotoxin gene into the tomato plant cells is *Agrobacterium tumefaciens*. The bacterial vector agent was eradicated by the use of appropriate antibacterial antibiotics.

6. Excision and horizontal movement of the stably integrated delta-endotoxin gene into a plant genome (i.e. chromosomal DNA) has not been demonstrated. The vector simply delivers and inserts the gene into the tomato genome. The vector does not survive in or on any of the transformed plants. There has been no demonstration of a mechanism in nature to move an inserted gene from a chromosome of a transformed plant to any other organism except by pollination.

7. There will be two separate tests; one to study resistance to tomato

fruitworm, and the other to evaluate resistance tobacco hornworm. The size of the field test plot for the first experiment is small (0.6 acre with 3,800 transgenic plants, 400 nontransgenic plant as controls) and for the second experiment will be 1,000 square feet (consisting of 200 transgenic plants and 25 nontransgenic controls).

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1978, and 44 FR 51272–51274, August 31, 1979).

Done at Washington, DC, this 9th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–11594 Filed 5–12–89; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 89–068]

Public Meeting; Veterinary Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are notifying producers of veterinary biological products and other interested persons that we are holding a public meeting to discuss current regulatory and policy issues relating to the manufacture and distribution of veterinary biological products. Among other things, the expiration of the exemption provision of the Food Security Act of 1985 will be discussed. This Act amended the Virus-Serum-Toxin Act of 1913 to require that, unless exempted, veterinary biological products shipped anywhere in the United States or exported, must be produced pursuant to a USDA license.

DATES: The public meeting will be held on July 6 and 7, 1989.

ADDRESS: The public meeting will be held in the Scheman Building at the Iowa State Center, Iowa State University, Ames, IA 50011.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8245.

SUPPLEMENTARY INFORMATION: The Virus-Serum-Toxin Act of 1913 (21 U.S.C. 151–159) was amended on December 23, 1985, by the Food Security Act of 1985. The Act as amended requires that, unless otherwise exempted by that statute, all veterinary biological products shipped in or from the United States must be produced at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Agriculture. The 1985 amendment provides that firms manufacturing products only for intrastate distribution or for exportation during the twelve month period ending on the date of its enactment can receive exemptions from the licensing requirements for their products until January 1, 1990. The exemptions may be extended by the Secretary of Agriculture for up to 12 months on a showing of good cause and a good faith effort to comply with the law. We intend to consider extensions of exemptions on a case by case basis, and will grant extensions for a maximum of 12 months.

The public meeting is being held to discuss the expiration of the exemption provision and other current issues relating to the manufacture and distribution of veterinary biological products. The agenda for the meeting includes the following topics:

1. The Food Security Act of 1985: Policy for Implementing the January 1, 1990, Deadline;
2. Available Options for Complying with the January 1, 1990, Deadline;
3. Field Operations Update;
4. National Veterinary Services Laboratories Update;
5. Biological Products Other than Vaccines;
6. Panel Discussion of Questions Submitted by Registrants; and
7. Workshop on the Licensing Process.

The meeting will be held in the Scheman Building at the Iowa State Center, Iowa State University, Ames, IA, on Thursday, July 6, 1989, from 8 a.m. to 5:30 p.m., and on Friday, July 7, 1989, from 8 a.m. to 12 noon. An optional tour of the National Veterinary Services Laboratories will be held the afternoon of July 7. Registration forms and copies of the complete agenda may be obtained from the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

Done in Washington, DC., this 9th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–11596 Filed 5–12–89; 8:45 am]

BILLING CODE 3410-34-M

[Docket 89–061]

U.S. Veterinary Biological Product and Establishment Licenses Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to advise the public of the issuance, suspension, revocation, or termination of veterinary biological product and establishment licenses by the Animal and Plant Health Inspection Service during the month of March 1989. These actions are taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6332.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

Pursuant to these regulations, the Animal and Plant Health Inspection Service (APHIS) issued the following U.S. Veterinary Biological Product Licenses during the month of March 1989:

Product License Code	Date Issued	Product	Establishment	Establishment License No.
5028.02	03-08-89	Feline Leukemia Virus Antigen Test Kit	Synbiotics Corporation	312
A721.11	03-08-89	Newcastle Disease Virus B_1 Type, Lasota Strain, Live Virus, For Further Manufacture.	Select Laboratories, Inc	279
1121.21	03-09-89	Bovine Rhinotracheitis-Parainfluenza$_3$ Vaccine, Modified Live Virus.	Coopers Animal Health, Inc	107
4439.21	03-09-89	Bovine Rhinotracheitis-Virus Diarrhea-Parainfluenza$_3$ Vaccine—Leptospira Canicola-Grippotyphosa-Hardjo-Icterohaemorrhagiae-Pomona Bacterin, Modified Live Virus.	Coopers Animal Health, Inc	107
4886.10	03-09-89	Newcastle-Bronchitis Vaccine—Mycoplasma Gallisepticum Bacterin, Mass. Type Killed Virus.	Intervet America Inc	286
12D5.40	03-10-89	Bursal Disease-Newcastle Disease-Bronchitis Vaccine, Standard and Variant, Mass. Type, Killed Virus.	Maine Biological Laboratories, Inc	240
12B5.40	03-13-89	Bursal Disease Vaccine, Standard and Variant, Killed Virus.	Intervet America Inc	286
19E5.20	03-13-89	Porcine Rotavirus Vaccine, Killed Virus	Bio Vac Laboratories, Inc	307
19H5.20	03-13-89	Porcine Rotavirus-Transmissible Gastroenteritis Vaccine, Killed Virus.	Bio Vac Laboratories, Inc	307
1231.1A	03-16-89	Bronchitis Vaccine, Mass. Type, Live Virus	Intervet America Inc	286
16D5.20	03-22-89	Feline Rhinotracheitis-Calici-Panleukopenia Vaccine, Killed Virus.	Agrion Corporation	213
5018.02	03-22-89	Canine Heartworm Antigen Test Kit	Synbiotics Corporation	312
5018.03	03-22-89	Canine Heartworm Antigen Test Kit	Synbiotics Corporation	312
44H5.20	03-24-89	Bovine Rhinotracheitis-Virus Diarrhea-Parainfluenza$_3$ Vaccine Haemophilus Somnus Bacterin, Killed Virus.	Fermenta Animal Health Co	272

The regulations in 9 CFR Part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biological Establishment License. The regulations set forth the procedure for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license. No U.S. Veterinary Biological Establishment Licenses were issued during March 1989.

The regulations in 9 CFR Parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses and U.S. Veterinary Biological Establishment Licenses. Pursuant to these regulations, APHIS terminated the following Veterinary Biological Product Licenses during the month of March 1989:

Product License Code	Date Terminated	Product	Establishment	Establishment License No.
1685.00	03-13-89	Mink Enteritis Vaccine, Killed Virus	Harlan Sprague Dawley, Inc	245
4929.00	03-13-89	Mink Distemper-Enteritis Vaccine, Modified Live and Killed Virus, Clostridium Botulinum Type C Bacterin-Toxoid.	Harlan Sprague Dawley, Inc	245
4955.00	03-13-89	Mink Enteritis Vaccine, Killed Virus, Clostridium Botulinum Type C Bacterin-Toxoid.	Harlan Sprague Dawley, Inc	245

Done at Washington, DC, this 9th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-11595 Filed 5-12-89; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 89-067]

Viruses, Serums, Toxins, and Analogous Products; Amendment of the Virus-Serum-Toxin Act of 1913

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Virus-Serum-Toxin Act, as amended by the Food Security Act of 1985, requires that, unless otherwise exempted all veterinary biological products shipped or delivered for shipment anywhere in or from the United States, must be produced at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Agriculture. The 1985 amendment provides that in the case of those persons preparing or shipping veterinary biological products subject to the Act "solely for intrastate commerce or exportation" during the 12-month period ending December 23, 1985, such products would not be in violation of the Act as a result of not having been prepared under a United States Department of Agriculture (USDA) license until December 31, 1989. The exemptions from licensing requirements were required to be claimed by January 1, 1987. This document gives notice to manufacturers granted the exemptions that these exemptions will expire at 12 midnight, December 31, 1989, unless an extension is applied for and granted. This document also provides the procedures for requesting extensions.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: The Food Security Act of December 23, 1985, amended the Virus-Serum-Toxin Act of 1913 making it unlawful for any person, except as specifically exempted by statute, to ship a veterinary biological product anywhere in the United States, or to export such product unless that product is prepared "under and in compliance with regulations prescribed by the Secretary of Agriculture, at an

establishment holding an unsuspended and unrevoked license issued by the Secretary of Agriculture * * *" The amendment provided that, in the case of a person preparing a veterinary biological product solely for intrastate commerce or for export during the 12-month period ending December 23, 1985, such product will not be considered to be in violation of the Act, as amended, as a result of its not being produced under license until the first day of the 49th month following December 23, 1985, that is, until January 1, 1990, provided such exemption was claimed by January 1, 1987.

A notice was published in the **Federal Register** at 51 FR 9695 informing the biologics industry and other interested persons that the 4-year exemption from licensure provided for in the amendment must be claimed by the person, firm, or corporation affected in the form and manner prescribed by the Secretary. An interim rule was published in the **Federal Register** at 51 FR 37383 informing manufacturers of unlicensed biological products of the procedures which must be followed to claim the exemption. All such claims for the exemption must have been made by the first day of the 13th month following December 23, 1985, that is, by January 1, 1987. In response to requests received, exemptions from licensure were granted to 57 intrastate manufacturers and 2,199 unlicensed veterinary biological products.

The exemptions granted pursuant to the 1985 amendment to the Act will expire at 12 midnight, December 31, 1989. This means that, beginning January 1, 1990, any product which is not otherwise exempt from licensure, and which was not produced under an exemption granted by the Secretary, will be in violation of the Act if it is shipped anywhere in or from the United States. The Act provides that the Secretary may grant extensions to exemptions from licensure "for a period up to 12 months, in an individual case on a showing by a person, firm, or corporation of good cause and a good faith effort to comply * * * with due diligence." The following procedures are provided to assist affected persons, firms, or corporations who wish to claim extension of the exemption(s).

A written request must be submitted for each product for which an extension is requested. The request for extension for each product should include but is not limited to the following:

1. A completed application for a United States Veterinary Biologics Establishment License, including Articles of Incorporation, Plot Plans, Blueprints, and Legends, if not previously filed or if the establishment requesting extensions in not already licensed.

2. An application for a United States Veterinary Biological Product License, for the product, provided that these forms were not previously submitted as part of a license application;

3. An Outline of Production for the product prepared in accordance with 9 CFR 114.9;

4. Research protocols and satisfactory data from studies demonstrating that the product is pure, safe, potent, and efficacious. If such studies are not completed, an interim report must be submitted with results obtained thus far of all ongoing studies. Protocols for all pending research, including dates for completion and submission of final data, must also be provided.

One of the primary criteria for determining whether or not an applicant receives an extension, will be whether the applicant makes an adequate showing that all of the requirements for licensure of a biological product can be completed by December 31, 1990. A claim for an extension should be submitted not later than October 1, 1989. This will allow the time necessary for the Department to make an adequate evaluation of the information submitted in support of the request. Requests for the extension should be sent to Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8245. Application forms may also be obtained by writing to this address.

Done at Washington, DC, this 9th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–11597 Filed 5–12–89; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Environmental Impact Statement; Flathead National Forest, Montana

AGENCY: Department of Agriculture, Forest Service, Flathead National Forest, Flathead, Lake, Lewis and Clark, Lincoln, Missoula, and Powell Counties, State of Montana.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an EIS for a proposal to amend the Flathead National Forest Land and Resource Management Plan (LRMP), of January, 1986, in order to clarify the Forest-wide and management area standards on off-road vehicle use and road vehicle use. This EIS will tier to the Flathead LRMP which provides overall guidance in achieving the desired future condition for the Forest. The purpose of the proposed action is to clarify the LRMP direction in order to fulfill the requirements of 36 CFR Part 295, use of motor vehicles off-roads in areas and on trails, and 36 CFR Part 261, prohibitions as they apply to use of vehicles on and off Forest Development roads."

Because of public scoping and issue identification was conducted during the summer of 1988, no additional formal comment period is planned prior to the release of the draft environmental impact statement (DEIS). The Draft Environmental Impact Statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in June 1989.

DATE: Additional comments will be accepted until 45 days after filing of the DEIS with the Environmental Protection Agency (40 CFR 1506.10(c)). These comments will be used in preparing the DEIS or the final EIS depending on the timing of the comment.

ADDRESS: Send written comments to Mary Peterson, Deputy Forest Supervisor, Flathead National Forest, 1935 Third Avenue East, Kalispell, MT 59911.

FOR FURTHER INFORMATION CONTACT: Paul Conrad, Travel Management Interdisciplinary team member or Mary Peterson, Deputy Forest Supervisor. Flathead National Forest, 1935 3rd Avenue East, Kalispell, MT 59901.

SUPPLEMENTARY INFORMATION: The LRMP for the Flathead National Forest provides the overall guidance for travel management activities through its goals, objectives, standards and guidelines, and management area direction. Travel management involves the control of human travel on roads, trails, and areas on the Forest. This involves placing restrictions when needed on various modes of travel during specific time periods. The primary mode of travel to be addressed is motorized but may include horse, bicycles, hiking, etc. as well.

The travel management under consideration is for all Flathead National Forest Land except currently designated Wilderness Areas. State and corporation lands, where applicable, may also be included in a cooperative

travel management program. The current direction relative to travel management is reflected on a map prepared in 1987 and various specific Forest Supervisor's orders and decisions.

The Chief directed the Forest to amend the LRMP in his decision rendered 8/31/88 on LRMP appeals #1467 and #1513. The amendment will clarify standards for the amount of road open at one time, particularly in habitat for threatened and endangered species.

The analysis conducts a range of alternatives. One of these is a "no-action" alternative, in which no change in the current Flathead LRMP would occur. Other alternatives will examine changes to clarify the LRMP direction.

The Fish and Wildlife Service, Department of the Interior, will be informally conducted throughout the analysis. To meet the requirements of the Endangered Species Act, the Fish and Wildlife Service will review the FEIS and biological evaluation and if necessary, render a formal Biological Opinion of the effects on the Threatened and Endangered Species including grizzly bear, gray wolf, and bald eagle.

The Draft Environmental Impact Statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in June 1989. At that time the EPA will publish a notice of availability of the DEIS in the Federal Register. After a 45 day public comment period, the comments received will be analyzed and considered by the Forest Service in the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by September, 1989. The Forest Service will respond in the FEIS to the comments received on the DEIS. The Forest Supervisor who is the responsible official for this EIS will make a decision regarding this proposal considering the comments, responses and environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Edgar B. Brannon, Forest Supervisor of the Flathead National Forest is the Responsible Official.

Date: May 4, 1989.

Mary H. Peterson,

Deputy Forest Supervisor, Flathead National Forest.

[FR Doc. 89-11545 Filed 5-12-89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Cooperative Charting Program.

Form Number: NOAA Forms 77-4 and 77-5; 0648-0022.

Type of Request: Request for extension of OMB approval of a currently cleared collection.

Burden: 3,000 respondents; 45,000 reporting hours; average hours per response—3 hours.

Needs and Uses: Members of the U.S. Power Squadrons and the U.S. Coast Guard Auxiliary are asked to submit information on observed conditions calling for corrections in nautical charts. The National Ocean Service uses the information to help prepare new editions of the charts.

Affected Public: Individuals or households, non-profit institutions or organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Russell Scarator, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Russell Scarato, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 8, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organizations.

[FR Doc. 89-11526 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of Export Administration

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held June 6, 1989, 9:30 a.m., Room 1617-F at the Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda

Open Session

1. Opening Remarks by the Chairman.
2. Presentation of Papers or Comments by the Public.
3. Discussion on Industry Proposals for Changes to PRC Telecommunications Regulations.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes, call Lee Ann Carpenter at (202) 377-2583.

Date: May 9, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 89-11527 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-DT-M

Radio Subcommittee, Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Radio Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held June 6, 1989, 1:30 p.m., at the Herbert C. Hoover Building, Room 1092, 14th Street & Constitution Avenue, NW., Washington, DC. The Radio Subcommittee was formed to study radio equipment with the goal of making recommendations to the Office of Technology & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of CCL Entries 1516, 1517, and 1520.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, call Lee Ann Carpenter at (202) 377–2583.

Date: May 9, 1989.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology & Policy Analysis.

[FR Doc. 89–11528 Filed 5–12–89; 8:45 am]

BILLING CODE 3510-DT-M

Switching Subcommittee, Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held June 6, 1989, 1:30 p.m., Herbert C. Hoover Building, Room 1617F, 14th Street & Constitution Avenue NW., Washington, DC. The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Office of Technology & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of network management control.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified material listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, call Lee Ann Carpenter at (202) 377–2583.

Date: May 9, 1989.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 89–11529 Filed 5–12–89; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A–428–801]

Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigations, the U.S. Department of Commerce determined that ball bearings, cylindrical roller bearings, spherical roller bearings, needle roller bearings, and spherical plain bearings were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings, cylindrical roller bearings, and spherical plain bearings from the Federal Republic of Germany (FRG) are materially injuring U.S. industries. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from the FRG are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B)) (the Act), *all* estimated antidumping duties deposited on entries of spherical roller bearings, needle roller bearings, and slewing rings from the FRG shall be refunded and the appropriate bonds or other security released.

In addition, on March 24, 1989, the Department found that critical circumstances existed with respect to certain products from certain companies. However, on May 8, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from the FRG. As

a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on ball bearings, cylindrical roller bearings, and spherical plain bearings entered or withdrawn from warehouse, for consumption, on or after August 11, 1988 and before November 9, 1988.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of ball bearings, cylindrical roller bearings, and spherical plain bearings, from the FRG, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from the FRG entered or withdrawn from warehouse, for consumption, on or after the date of publication of these antidumping duty orders in the **Federal Register**.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Bradford Ward, Carole Showers, or Mary Clapp, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–5288, 377–3705, or 377–3965.

SUPPLEMENTARY INFORMATION: The products covered by these investigations are identified in the Appendix attached to these orders.

In accordance with section 735(a) of the Act (19 U.S.C. 1673(a)), on March 24, 1989, the Department made its final determinations that ball bearings, spherical roller bearings, cylindrical roller bearings, needle roller bearings, and spherical plain bearings from the FRG are being sold at less than fair value (54 FR 18992, May 3, 1989) and that critical circumstances exist with respect to certain products from certain companies. On May 8, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings, cylindrical roller bearings, and spherical plain bearings are materially injuring U.S. industries and that critical circumstances do not exist with respect to any imports from the FRG. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from the FRG are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 167e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from the FRG. These antidumping duties will be assessed on all unliquidated entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from the FRG entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determination notice in the **Federal Register** (53 FR 45353, November 9, 1988).

On or after the date of publication of these orders, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from the FRG:

Ball Bearings: Manufacturers/Producers/Exporters	Weighted-average margin (percent)
FAG Kugelfischer Georg, Schaefer KGaA (FAG)	70.41
Georg Meuller Nurnberg, AG (GMN)	35.43
INA Walzlager Schaeffler (INA)	31.29
SKF Kugellagerfabriken GMBH, SKF GMBH, SKF Schweinfurt, SKF Linearsysteme, or SKF Gleitlager (SKF)	132.25
All Others	68.89

Cylindrical Roller Bearings: Manufacturers/Producers/Exporters	Weighted-average margin (percent)
FAG	52.43
INA	52.43
SKF	76.27
All Others	55.65

Spherical Plain Bearings: Manufacturers/Producers/Exporters	Weighted-average margin (percent)
FAG	74.88
SKF	118.98
All Others	114.52

These orders are published in accordance with section 736(a) of the Act (19 U.S.C. 1673e). Interested parties may contact the Central Records Unit, Room B–099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) *Ball Bearings, Mounted or Unmounted, and Part Thereof:* These products include all antifricton bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(2) *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Imports of these products are classified under the following TSUSA categories: antifriction rollers (TSUSA item 680.3040); roller bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); roller bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other roller bearings (except tapered roller

bearings) and parts thereof (TSUSA item 680.3960). Wheel hub units which employ cylindrical rollers as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(3) *Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all spherical plain bearings which do not employ rolling elements and include spherical plain rod ends. Spherical plain bearings entering under TSUSA items 681.3900 and 692.3295 are subject to investigation; all other products entering under these TSUSA items are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts, all such parts *are included* in the scope of these investigations. For *unfinished* parts, such parts are included *if* (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-1711 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-801]

Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof From France

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigations, the U.S. Department of Commerce determined that ball bearings, cylindrical roller bearings, needle roller bearings, spherical roller bearings, spherical plain bearings, and parts thereof from France were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings, cylindrical roller bearings, spherical plain bearings, and parts thereof from France are materially injuring U.S. industries. The ITC also determined that imports of spherical roller bearings, needle roller bearings, slewing rings, and parts thereof from France are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B)) (the Act), *all* estimated antidumping duties deposited on entries of spherical roller bearings, needle roller bearings, slewing rings, and parts thereof from France shall be refunded and the appropriate bonds or other security released.

Based on the affirmative findings of the Department and the ITC, pursuant to section 736 of the Act, all unliquidated entries of ball bearings, cylindrical roller bearings, spherical plain bearings and parts thereof from France, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings, cylindrical roller bearings, spherical plain bearings, and parts thereof from France entered or withdrawn from warehouse, for consumption, on or after the date of publication of these antidumping duty orders in the **Federal Register.**

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Showers, Bradford Ward, or Mary Clapp, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW. Washington, DC 20230; telephone (202) 377-3217, 377-5288, or 377-3965, respectively.

SUPPLEMENTARY INFORMATION: The products covered by these investigations are identified in the Appendix attached to these orders.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on March 24, 1989, the Department made its final determinations that ball bearings, spherical roller bearings, needle roller bearings, spherical plain bearings, and parts thereof from France were being sold at less than fair value (54 FR 19092, May 3, 1989). On May 8, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings, cylindrical roller bearings, spherical plain bearings, and parts thereof from France, are materially injuring U.S. industries. The ITC also determined that imports of spherical roller bearings, needle roller bearings, slewing rings, and parts thereof from France were not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings, cylindrical roller bearings, spherical plain bearings, and parts thereof from France. These antidumping duties will be assessed on all unliquidated entries of ball bearings, cylindrical roller bearings, spherical plain bearings, and parts thereof from France entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determination notice in the **Federal Register** (53 FR 45328, November 9, 1988).

On or after the date of publication of these orders, U.S. Customs officers must require a cash deposit equal to the estimated weight-average dumping margins noted below for entries of ball bearings, cylindrical roller bearings, spherical plain bearings, and parts thereof from France:

Ball Bearings: Manufacturer/Producer/Exporter	Weighted-averaged margin (percent)
SNR	56.50
INA	66.18
SKF	66.42
All Others	65.13

Cylindrical Roller Bearings: Manufacturer/Producer/Exporter	Weighted-average margin (percent)
SNR	18.37
INA	11.03
All Others	17.31

Spherical Plain Bearings: Manufacturer/Producer/Exporter	Weighted-average margin (percent)
SKF	39.00
All Others	39.00

These antidumping duty orders are published in accordance with section 736(a) of the Act (19 U.S.C. 1673e). Interested parties may contact the Central Records Unit, Room B–099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) *Ball Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(2) *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Imports of these products are classified under the following TSUSA categories: antifriction rollers (TSUSA item 680.3040); roller bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); roller bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other roller bearings (except tapered roller bearings) and parts thereof (TSUSA item 680.3960). Wheel hub units which employ cylindrical rollers as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8420.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(3) *Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all spherical plain bearings which do not employ rolling elements and include spherical plain rod ends. Spherical plain bearings entering under TSUSA items 681.3900 and 692.3295 are subject to investigation; all other products entering under these TSUSA items are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts, all such parts *are included* in the scope of these investigations. For *unfinished* parts, such parts are included *if* (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89–11709 Filed 5–12–89; 8:45 am]

BILLING CODE 3510–DS–M

[A–475–801]

Antidumping Duty Orders: Ball Bearings and Cylindrical Roller Bearings, and Parts Thereof From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigations, the U.S. Department of Commerce determined that ball bearings, cylindrical roller bearings, spherical roller bearings and needle roller bearings were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings and cylindrical roller bearings from Italy are materially injuring U.S. industries. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from Italy are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(c)(2)(B)), *all* estimated antidumping duties deposited on entries of spherical roller bearings, needle roller bearings, and slewing rings from Italy shall be refunded and the appropriate bonds or other security released.

In addition, on March 24, 1989, the Department found that critical circumstances existed with respect to certain products from certain companies. However, on May 8, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from Italy. As a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on ball bearings and cylindrical roller bearings entered or withdrawn from warehouse, for consumption, on or after August 11, 1988 and before November 9, 1988.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of ball bearings and cylindrical roller bearings from Italy, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings and cylindrical roller bearings from Italy entered or withdrawn from warehouse, for consumption, on or after the date of publication of these antidumping duty orders in the **Federal Register**.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Showers or Bradford Ward, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–3217 or 377–5288.

SUPPLEMENTARY INFORMATION: The products covered by these investigations are identified in the Appendix attached to these orders.

In accordance with section 735(a) of the Act, on March 24, 1989, the Department made its final determinations that ball bearings, cylindrical roller bearings, spherical roller bearings, and needle roller bearings from Italy are being sold at less than fair value (54 FR 19096, May 3, 1989) and that critical circumstances exist with respect to certain products from certain companies. On May 8, 1989,

in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings and cylindrical roller bearings from Italy are materially injuring U.S. industries and that critical circumstances do not exist with respect to any imports from Italy. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from Italy are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority, pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings and cylindrical roller bearings from Italy. These antidumping duties will be assessed on all unliquidated entries of ball bearings and cylindrical roller bearings from Italy entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determination notice in the **Federal Register** (53 FR 45361, November 9, 1988).

On or after the date of publication of these orders, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings or cylindrical roller bearings from Italy:

Ball Bearings: Manufacturers/ Producers/Exporters	Weighted-average margin (percent)
FAG Cuscinetti S.p.A. or CBF Cuscinetti S.p.A. (FAG)	68.29
RIV–SKF Officine di Villar Perosa S.p.A. (SKF)	155.99
All Others	155.57

Cylindrical Roller Bearings: Manufacturers/Producers/Exporters	Weighted-Average Margin (percent)
SKF	212.45
All others	212.45

These orders are published in accordance with section 736(a) of the Act (19 U.S.C. 1673e). Interested parties may contact the Central Records Unit, Room B–099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) *Ball Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(2) *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Imports of these products are classified under the following TSUSA categories: antifriction rollers (TSUSA item 680.3040); roller bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); roller bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other roller bearings (except tapered roller bearings) and parts thereof (TSUSA item 680.3960). Wheel hub units which employ cylindrical rollers as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.), outlined above with certain limitations. With regard to *finished* parts all such parts *are included* in the scope of these investigations. For *unfinished* parts such parts are included *if:* (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89–11712 Filed 5–12–89; 8:45 am]

BILLING CODE 3510-DS-M

[A–588–804]

Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings, and Parts Thereof From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigations, the U.S. Department of Commerce determined that ball bearings, cylindrical roller bearings, spherical roller bearings, needle roller bearings, and spherical plain bearings, and parts thereof were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings, cylindrical roller bearings, and spherical plain bearings from Japan are materially injuring U.S. industries. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from Japan are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B)) (the Act), *all* estimated antidumping duties deposited on entries of spherical roller bearings, needle roller bearings, and slewing rings from Japan shall be refunded and the appropriate bonds or other security released.

In addition, on March 24, 1989, the Department found that critical circumstances existed with respect to certain products from certain companies. However, on May 8, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from Japan. As a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds

collected on ball bearings, cylindrical roller bearings, and spherical plain bearings entered or withdrawn from warehouse, for consumption, on or after August 11, 1988 and before November 9, 1988.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of ball bearings, cylindrical roller bearings, and spherical plain bearings as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determinations in the Federal Register, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from Japan entered or withdrawn from warehouse, for consumption, on or after the date of publication of these antidumping duty orders in the **Federal Register.**

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–0167.

SUPPLEMENTAL INFORMATION: The products covered by this investigation are identified in the Appendix attached to this order.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on March 24, 1989, the Department made its final determinations that ball bearings, spherical roller bearings, cylindrical roller bearings, needle roller bearings, and spherical plain bearings are being sold at less than fair value (54 FR 19101, May 3, 1989) and that critical circumstances exist with respect to certain products from certain companies. On May 8, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings, cylindrical roller bearings, and spherical plain bearings from Japan are materially injuring U.S. industries and that critical circumstances do not exist with respect to any imports from Japan. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from Japan are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673(e)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from Japan. These antidumping duties will be assessed on all unliquidated entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from Japan entered or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary determination notice in the **Federal Register** (53 FR 45343, November 9, 1988).

On or after the date of publication of these orders, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings, cylindrical roller bearings, and spherical plain bearings from Japan:

Ball Bearings: Manufacturers/ Producers/Exporters	Weighted-average margin (percent)
Koyo	73.55
Minebea	106.61
Nachi	48.69
NSK	42.99
NTN	21.36
All Others	45.83

Cylindrical Roller Bearings: Manufacturers/Producers/Exporters	Weighted-average margin (percent)
Koyo	51.21
Nachi	4.00
NSK	12.28
NTN	9.30
All Others	25.80

Spherical Plain Bearings: Manufacturers/Producers/Exporters	Weighted-average margin (percent)
Minebea	84.26
NTN	92.000
All Others	84.33

These orders are published in accordance with section 736(a) of the Act (19 U.S.C. 1673e(a)). Interested parties may contact the Central Records Unit, Room B–099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) *Ball Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA items 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(2) *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Imports of these products are classified under the following TSUSA categories: antifriction rollers (TSUSA item 680.3040); roller bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); roller bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other roller bearings (except tapered roller bearings) and parts thereof (TSUSA item 680.3960). Wheel hub units which employ cylindrical rollers as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(3) *Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all spherical plain bearings which do not employ rolling elements and include spherical plain rod ends. Spherical plain bearings entering under TSUSA items 681.3900 and 692.3295 are subject to investigation; all other products entering under these TSUSA items are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts, all such parts *are included* in the scope of these investigations. For *unfinished* parts, such parts are included *if:* (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-11710 Filed 5-12-89; 8:45 am]
BILLING CODE 3510-DS-M

[A-485-801]

Antidumping Duty Order: Ball Bearings and Parts Thereof From Romania

AGENCY: Import Administration, International Trade, Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigations, the U.S. Department of Commerce determined that ball bearings and spherical roller bearings were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings from Romania are materially injuring the U.S. industry. The ITC also determined that imports of spherical roller bearings and slewing rings from Romania are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B)) (the Act), *all* estimated antidumping duties deposited on entries of spherical roller bearings and slewing rings from Romania shall be refunded and the appropriate bonds or other security released.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of ball bearings from Romania, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings from Romania entered or withdrawn from warehouse, for consumption, on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Showers, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3217.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are identified in the Appendix attached to this order.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on March 24, 1989, the Department made its final determinations that ball bearings and spherical roller bearings from Romania are being sold at less than fair value (54 FR 10109, May 3, 1989). On May 8, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings from Romania are materially injuring a U.S. industry. The ITC also determines that imports of spherical roller bearings and slewing rings from Romania are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States Price for all entries of ball bearings from Romania. These antidumping duties will be assessed on all unliquidated entries of ball bearings from Romania entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determination notice in the **Federal Register** (53 FR 45324, November 9, 1988).

On or after the date of publication of this order, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings from Romania:

Ball Bearings: Manufacturers/ Producers/Exporters	Weighted-average margin (percent)
Technoimportexport	39.61
All Others	39.61

This order is published in accordance with section 736(a) of the Act (19 U.S.C. 1673e). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following "class or kind" of merchandise as outlined below.

Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories. antifriction balls *(Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, oiuter race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts, all such parts *are included* in the scope of these investigations. For *unfinished* parts, such parts are included *if:* (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only

unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-11715 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-559-801]

Antidumping Duty Order of Sales at Less Than Fair Value: Ball Bearings and Parts Thereof From Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that ball bearings and parts thereof (ball bearings) were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings from Singapore are materially injuring a U.S. industry.

The ITC also determined that slewing rings from Singapore are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry. As a result, all estimated antidumping duties deposited on entries of slewing rings shall be refunded and the appropriate bonds or other securities released.

Based on the findings of the Department and the ITC, all unliquidated entries of ball bearings from Singapore, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings from Singapore entered or withdrawn from warehouse, for consumption, on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Eleanor Shea, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0184.

SUPPLEMENTAL INFORMATION: The products covered by this investigation are identified in the Appendix attached to this order.

In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act), on March 24, 1989, the Department made its final determination that ball bearings from Singapore are being sold at less than fair value (54 FR 19112, May 3, 1989). On May 8, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings from Singapore are materially injuring a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings from Singapore. These antidumping duties will be assessed on all unliquidated entries of ball bearings from Singapore entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determination notice in the **Federal Register** (53 FR 45339, November 9, 1988).

On or after the date of publication of this order, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings from Singapore:

Manufacturers/Producers/Exporters	Weighted-average margin (percent)
NMB/Pelmec Singapore	25.08
All Others	25.08

This order is published in accordance with section 736(a) of the Act (19 U.S.C. 1673e). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following "class or kind" of merchandise as outlined below.

Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727 and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts, all such parts *are included* in the scope of these investigations. For *unfinished* parts, such parts are included *if*: (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-11716 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-801]

Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof From Sweden

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigations, the U.S. Department of Commerce determined that ball bearings, spherical roller bearings, cylindrical roller bearings, and parts thereof from Sweden were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings, cylindrical roller bearings, and parts thereof (hereinafter referred to as ball bearings and cylindrical roller bearings) from Sweden are materially injuring U.S. industries. The ITC also determined that imports of spherical roller bearings and

slewing rings from Sweden are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B)) (the Act), *all* estimated antidumping duties deposited on entries of spherical roller bearings and slewing rings from Sweden shall be refunded and the appropriate bonds or other security released.

In addition, on March 24, 1989, the Department found that critical circumstances existed with respect to certain products from certain companies. However, on May 8, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from Sweden. As a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on ball bearings and cylindrical roller bearings entered or withdrawn from warehouse, for consumption, on or after August 11, 1988 and before November 9, 1988.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of ball bearings and cylindrical roller bearings from Sweden, as described in this notice, which were entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings and cylindrical roller bearings from Sweden entered or withdrawn from warehouse, for consumption, on or after the date of publication of these antidumping duty orders in the **Federal Register**.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Showers, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–3217.

SUPPLEMENTAL INFORMATION: The products covered by these investigations are identified in the Appendix attached to these orders.

In accordance with section 735(a) of the Act, on March 24, 1989, the Department made its final determinations that ball bearings, spherical roller bearings, and cylindrical roller bearings from Sweden are being sold at less than fair value (54 FR 19114, May 3, 1989) and that critical circumstances exist with respect to certain products. On May 8, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings and cylindrical roller bearings are materially injuring U.S. industries and that critical circumstances do not exist with respect to any imports from Sweden. The ITC also determined that imports of spherical roller bearings and slewing rings from Sweden are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings and cylindrical roller bearings from Sweden. These antidumping duties will be assessed on all unliquidated entries of ball bearings and cylindrical roller bearings from Sweden entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determinations notice in the **Federal Register** (53 FR 45319, November 9, 1988).

On or after the date of publication of these orders, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings and cylindrical roller bearings from Sweden:

Ball Bearings: Manufacturers/ Producers/Exporters	Weighted-average margin (percent)
SKF	180.00
All Others	180.00

Cylindrical Roller Bearings: Manufacturers/Producers/Exporters	Weighted-average margin (percent)
SKF	13.69
All Others	13.69

These orders are published in accordance with section 736(a) of the Act (19 U.S.C. 1673e). Interested parties may contact the Central Records Unit, Room B–099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) *Ball Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA item 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(2) *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Imports of these products are classified under the following TSUSA categories: antifriction rollers (TSUSA item 680.3040); roller bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); roller bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other roller bearings (except tapered roller bearings) and parts thereof (TSUSA item 680.3860). Wheel hub units which employ cylindrical rollers as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.), outlined above with certain limitations. With regard to *finished* parts all such parts *are included* in the scope of these investigations. For *unfinished* parts such parts are included *if:* (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-11713 Filed 5-12-89; 8:45 am]
BILLING CODE 3510-DS-M

[A-549-801]

Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value: Ball Bearings and Parts Thereof From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that ball bearings and parts thereof (ball bearings) were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings from Thailand are materially injuring a U.S. industry.

The ITC also determined that slewing rings from Thailand are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry. As a result, all estimated antidumping duties deposited on entries of slewing rings shall be refunded and the appropriate bonds or other securities released.

In addition, on March 24, 1989, the Department found that critical circumstances did not exist with respect to ball bearings from NMB/Pelmec Thai. As a result of the Department's negative critical circumstances determination pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on ball bearings entered or withdrawn from warehouse, for consumption, on or after August 11, 1988 and before November 9, 1988.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of ball bearings from Thailand, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumping duty determination in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties must be made on all entries of ball bearings from Thailand entered or withdrawn from warehouse, for consumption, on or after the date of publication of this antidumping duty order in the **Federal Register.**

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Eleanor Shea, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW. Washington, DC 20230; telephone: (202) 377-0184.

SUPPLEMENTAL INFORMATION: The products covered by this investigation are identified in the Appendix attached to this order.

In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act), on March 24, 1989, the Department made its final determination that ball bearings from Thailand are being sold at less than fair value (54 FR 19117, May 3, 1989). On May 8, 1989, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of ball bearings are materially injuring a U.S. industry and that critical circumstances do not exist with respect to any imports from Thailand.

Subsequent to the Department's final determination, NMB/Pelmec Thai made an allegation that a clerical error had been made in the calculation of actual profit. The Department conducted a review based on these comments and hereby amends its final determination to correct this error. This correction changes NMB/Pelmec Thai's weighted-average dumping margin of ball bearings from 20.40% to 18.77% and the "all others" rate from 20.40% to 18.77%.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings from Thailand. These antidumping duties will be assessed on all unliquidated entries of ball bearings from Thailand entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determination notice in the **Federal Register** (53 FR 45334, November 9, 1988).

On or after the date of publication of this order, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings from Thailand. The amount of export subsidies (21.54%) found in the concurrent countervailing duty investigation on this merchandise from Thailand has already been subtracted from the corrected final weighted-average dumping margins to arrive at the percentages shown below:

Manufacturers/Producers/Exporters	Weighted-average margin (percent)
NMB/Pelmec Thai	00.00
All others	00.00

This constitutes an amendment to the final determination and antidumping duty order with respect to ball bearings from Thailand, pursuant to sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of orders currently in effect.

This order is published in accordance with section 736(a) of the Act (19 U.S.C. 1673e).

Joseph A. Spetrini

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following "class or kind" of merchandise as outlined below.

Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are

subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts, all such parts *are included* in the scope of these investigations. For *unfinished* parts, such parts are included *if*: (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-11717 Filed 5-12-89; 8:45 am]
BILLING CODE 3510-DS-M

[A-412-801]

Antidumping Duty Orders and Amendments to the Final Determinations of Sales at Less Than Fair Value: Ball Bearings, and Cylindrical Roller Bearings and Parts Thereof From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigations, the U.S. Department of Commerce determined that ball bearings, cylindrical roller bearings, spherical roller bearings, and needle roller bearings from the United Kingdom (U.K.) were being sold at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of ball bearings and cylindrical roller bearings from the U.K. are materially injuring U.S. industries. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from the U.K. are not materially injuring, threatening material injury to, or retarding the establishment of a U.S. industry.

As a result, pursuant to section 735(c)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(c)(2)(B)) (the Act), *all* estimated antidumping duties deposited on entries of spherical roller bearings, needle roller bearings, and slewing rings from the U.K. shall be refunded and the appropriate bonds or other security released.

In addition, on March 24, 1989, the Department found that critical circumstances existed with respect to certain products from certain companies. However, on May 8, 1989, the ITC notified the Department that critical circumstances do not exist with respect to any imports from the U.K. As a result of the ITC's negative critical circumstances determination, pursuant to section 735(c)(3)(B) of the Act, the U.S. Customs Service will refund all cash deposits and release all bonds collected on ball bearings and cylindrical roller bearings entered or withdrawn from warehouse, for consumption, on or after August 11, 1988 and before November 9, 1988.

Based on the affirmative findings of the Department and the ITC, all unliquidated entries of ball bearings and cylindrical roller bearings from the U.K., as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 1988, the date on which the Department published its preliminary affirmative antidumpting duty determinations in the **Federal Register**, will be liable for the possible assessment of antidumping duties.

A cash deposit of estimated antidumping duties msut be made on all entries of ball bearings and cylindrical roller bearings from the U.K. entered or withdrawn from warehouse, for consumption, on or after the date of publication of these antidumping duty orders in the **Federal Register.**

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Showers or Mary Clapp, Office of Antidumping Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3217, or 377-3965.

SUPPLEMENTARY INFORMATION: The products covered by these investigations are identified in the Appendix attached to these orders.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on March 24, 1989, the Department made its final determinations that ball bearings, spherical roller bearings, cylindrical roller bearings, and needle roller bearings from the U.K. are being sold at less than fair value (54 FR 19120, May 3, 1989) and that critical circumstances exist with respect to certain products from certain companies. On May 8, 1988, in accordance with secton 735(d) of the Act, the ITC notified the Department that imports of ball bearings and cylindrical roller bearings from the U.K. are materially injuring U.S. industries and that critical circumstances do not exist with respect to any imports from the U.K. The ITC also determined that imports of spherical roller bearings, needle roller bearings, and slewing rings from the U.K. are not materially injuring, threatening material injury to, or retarding the establishment of, a U.S. industry.

Subsequent to the Department's final determinations, RHP made allegations that certain clerical errors had been made with respect to the deduction of home market credit notes. The Department conducted a review based on these comments and hereby amends its final determinations to correct these errors. These corrections change RHP's weighted-average dumping margin for ball bearings from 44.12% to 44.02% and the "all others" rate from 54.31% to 54.27%. RHP's weighted-average dumping margin for cylindrical roller bearings changes from 43.44% to 43.36% and the "all others" rate for cylindrical roller bearings changes from 43.44% to 43.36%.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ball bearings and cylindrical roller bearings from the U.K. These antidumping duties will be assessed on all unliquidated entries of ball bearings and cylindrical roller bearings from the U.K. entered or withdrawn from warehouse, for consumption, on or after November 9, 1988, the date on which the Department published its preliminary determinations notice in the **Federal Register** (53 FR 45312, November 9, 1988).

On or after the date of publication of these orders, U.S. Customs officers must require a cash deposit equal to the estimated weighted-average dumping margins noted below for entries of ball bearings and cylindrical roller bearings from the U.K.:

Ball Bearings: Manufacturers/ Producers/Exporters	Weighted-average margin (percent)
SKF	61.14
RHP	44.02
All Others	54.27

Cylindrical Roller Bearings: Manufacturers/Producers/Exporters	Weighted-average margin (percent)
RHP	43.36
All Others	43.36

These determinations constitute amendments to the final determinations and antidumping duty orders with respect to ball bearings and cylindrical roller bearings from the U.K., pursuant to sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)). Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of orders currently in effect.

These determinations and orders are published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e).

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) *Ball Bearings, Mounted or Unmounted, and Part Thereof:* These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA item] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

(2) *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Imports of these products are classified under the following TSUSA categories: antifriction rollers (TSUSA item 680.3040); roller bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); roller bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other roller bearings (except tapered roller bearings) and parts thereof (TSUSA item 680.3960). Wheel hub units which employ cylindrical rollers as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation.

Imports of these products are also classified under the following HTS subheadings: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts all such parts *are included* in the scope of these investigations. For *unfinished* parts such parts are included *if*: (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-11714 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-549-802]

Amendment to Partial Countervailing Duty Order: Ball Bearings and Parts Thereof From Thailand (C-549-802)

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On May 3, 1989, we published a final affirmative countervailing duty determination and partial countervailing duty order on ball bearings and parts thereof from Thailand (54 FR 19130; the scope was attached to *Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany*, 54 18992, May 3, 1989). On May 8, 1989, the U.S. International Trade Commission (ITC) informed the Department that imports of ball bearings and parts thereof classified under *Tariff Schedules of the United States Annotated* (TSUSA) categories 681.1010, 681.1030, and 692,3295, and *Harmonized Tariff System* (HTS) categories 8483.20.40, 8483.30.40, 8483.90.20, 8483.90.30, and 8708.99.50, do materially injure, or threaten material injury to, the U.S. ball bearing industry. We are therefore amending our partial countervailing duty order to include ball bearings and parts thereof classified under these TSUSA/HTS categories.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Eleanor Shea, Office of Countervailing Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0184.

SUPPLEMENTARY INFORMATION: On May 3, 1989, we published a final affirmative countervailing duty determination and partial countervailing duty order on ball bearings and parts thereof from Thailand (54 FR 19130; the scope was attached to *Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tappered Roller Bearings) and Parts Thereof from the Federal Republic of Germany*, 54 FR 18992, May 3, 1989). Since Thailand is not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), section 303 of the Act applies to this investigation. However, Thailand is a signatory to the General Agreement on Tariffs and Trade, and certain products included in the scope of this investigation may enter under non-dutiable TSUSA/HTS categories, *i.e.*, those classified under TSUSA item numbers 681.1010, 681.1030, and 692.3295, and under HTS item numbers 8483.20.40, 8483.30.40, 8483.90.20, 8483.90.30, and 8708.99.50. Therefore, in accordance with section 303(a)(2), the ITC was required to determine whether imports of these non-dutiable products from Thailand materially injure, or threaten material injury to, a U.S. industry.

We stated in our final countervailing duty determination and partial countervailing duty order that, if the ITC were to determine that imports of ball bearings and parts thereof classified under these TSUSA/HTS categories materially injure, or threaten material injury to, a U.S. industry, we would amend our partial countervailing duty order to include those ball bearings and parts thereof classified under these TSUSA/HTS categories and would direct the U.S. Customs Service to resume suspension of liquidation on all entries of ball bearings and parts thereof from Thailand under these categories that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of our amended countervailing duty order.

On May 8, 1989, the ITC informed the Department that imports of ball bearings and parts thereof classified under these

TSUSA/HTS categories do materially injure, or threaten material injury to, the U.S. ball bearing industry. We are therefore amending our partial countervailing duty order to include ball bearings and parts thereof classified under these TSUSA/HTS categories. The products covered by this investigation are identified in the attached scope appendix.

This amendment is published in accordance with section 706(a) of the Act. Interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of an updated list of orders currently in effect.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 11, 1989.

Appendix—Scope of These Investigations

The products covered by these investigations, antifriction bearings (other than tapered rolelr bearings), mounted or unmounted, and parts thereof, constitute the following "class or kind" of merchandise as outlined below.

Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls (*Tariff Schedules of the United States Annotated* [TSUSA] items 680.3025 and 680.3030); ball bearings with integral shafts (TSUSA item 680.3300); ball bearings (including radial ball bearings) and parts thereof (TSUSA items 680.3704, 680.3708, 680.3712, 680.3717, 680.3718, 680.3722, 680.3727, and 680.3728); ball bearing type pillow blocks and parts thereof (TSUSA items 681.0410 and 681.0430); ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof (TSUSA items 681.1010 and 681.1030); and other bearings (except tapered roller bearings) and parts thereof (TSUSA 680.3960). Wheel hub units which employ balls as the rolling element entering under TSUSA item 692.3295 are subject to investigation; all other products entering under this TSUSA item are not subject to investigation. Finished but unground or semiground balls are not included in the scope of this investigation.

Imports of these products are also classified under the following Harmonized Tariff Schedule (HTS) subheadings: 8482.1010, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

These investigations cover all of the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to *finished* parts, all such parts *are included* in the scope of these investigations. For *unfinished* parts, such parts are included *if:* (1) They have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are *not* covered by these investigations are those that will be subject to heat treatment after importation.

[FR Doc. 89-11718 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Genstar Stone Products Co.

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Dismissal of appeal.

Genstar Stone Products Company (Appellant) filed an appeal with the Secretary of Commerce under section 307(c)(3)(A) of the Coastal Zone Management Act, 16 U.S.C. 1456(c)(3)(A), in response to an objection by the New Jersey Department of Environmental Protection (State) to the Appellant's consistency certification for a United States Army Corps of Engineers Permit pursuant to Section 10 of the Rivers and Harbors Act of 1899. The Appellant's consistency certification was for the reconstruction of an existing dock and the dredging of the Maurice River near Millville, New Jersey.

On March 30, 1989, the agency received a letter from Appellant's counsel withdrawing the consistency appeal.

The appeal was dismissed by letter to the parties from the Under Secretary for Oceans and Atmosphere, dated May 1, 1989. Appellant is barred from filing another appeal from the New Jersey Department of Environmental Protection's objection to the original consistency certification.

FOR ADDITIONAL INFORMATION CONTACT: Hugh C. Schratwieser, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235, (202) 673-5200.

Date: May 9, 1989.

B. Kent Burton,

Assistant Secretary for Oceans and Atmosphere.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

[FR Doc. 89-11579 Filed 5-12-89; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

May 10, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: May 17, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quote Status Report posted on the bulletin boards of each Customs port or call (202) 343-6581. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Article 3 of the Arrangement Regarding International Trade in Textiles. Inasmuch as the consultation period for Categories 301pt./607pt. expires on March 30, 1989, the United States Government has decided to establish a twelve-month limit on these categories for the period January 30, 1989 through January 29, 1990.

The United States remains committed to finding a solution concerning Categories 301pt./607pt. Should such a solution be reached in consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also

see 54 FR 7083, published on February 16, 1989.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 10, 1989.

Commissioner of Customs
Department of the Treasury
Washinton, DC 20229

Dear Mr. Commissioner:

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 17, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton/polyester yarn in Categories 301pt./607pt.,[1] produced or manufactured in Thailand and exported during the twelve-month period which began on January 30, 1989 and extends through January 29, 1990, in excess 2,907,527 kilograms.[2]

Effective on May 17, 1989, you are directed to amend the current counting period for Category 301pt.[3] to end January 29, 1989.

Imports charged to Category 301pt. for the period January 1, 1988 through December 31, 1988 shall be charged against the level of restraint to the extent of any unfilled balance.

Textile products in Categories 301pt./607pt. exported to the United States during the period January 1–29, 1989 shall not be subject to the limit established in this directive.

Textile products in Categories 301pt./607pt. which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall with the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–11565 Filed 5–12–89; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Categories 301pt./607pt., only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000 in Category 301pt.; and 5509.53.0030 and 5509.53.0060 in Category 607pt.

[2] The limit has not been adjusted to account for any imports exported after January 29, 1989.

[3] In Category 301pt., only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 2, 1989.

The USAF Scientific Advisory Board panel on Superconductors for Aerospace Applications will meet on 1 June 1989 from 8:00 p.m. to 5:00 p.m. at the Pentagon, Washington, DC.

The purposes of this meeting are to review the projected capabilities of superconductor and advanced semiconductor digital electronics and to complete the panel's final report.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 89–11571 Filed 5–12–89; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Supplemental Environmental Impact Statement; Yazoo Headwater Project

To prepare a Draft Supplemental Environmental Impact Statement (DSEIS) to the Final Environmental Impact Statement for the Operation and Maintenance of Arkabutla Lake, Enid Lake, Grenada Lake, and Sardis Lake, Mississippi.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Supplemental Environmental Impact Statement (DSESIS).

SUMMARY: The Yazoo Headwater Project was authorized to control flooding on the four primary tributaries of the Yazoo River. As a part of the Project, flood control impoundments were constructed on the Coldwater River (Arkabutla Lake), the Yocona River (Enid Lake), the Yalobusha and Skuna Rivers (Grenada Lake), and the Little Tallahatchie River (Sardis Lake). Construction dates for the lakes were as follows: Sardis, 1937–1940; Arkabutla, 1940–1943; Enid, 1947–1952; and Grenada, 1947–1954.

Since channels downstream of the dams were inadequate to handle the design discharges from the lakes, the streams were straightened, sides and bottoms smoothed, and sediment-trapping snags, vegetation, and debris eliminated to increase flow carrying capacities to project specifications. This work was undertaken as an integral part of the Yazoo Basin flood control system during the 1940's and 1950's.

The impoundments are regulated to store rainfall runoff during the normal rainy winter and spring months and release the stored water at controlled rates during the normally drier summer and fall months. Effective flood control regulation of the lakes require evacuation of the stored water prior to the next flood season at rates which do not damage rural residences and crops.

Prior to 1973, a prolonged period of relatively normal to dry rainfall conditions permitted effective lake regulating without regard to downstream channel deterioration; therefore channel maintenance on Yazoo Basin channels was restricted, for the most part, to snagging operations and the removal of unsound, overhanging trees. During the period from 1973 to the present, several unusually high-water years resulted in sharply increased deposition of sediment in the channels to the point they are significantly affecting the capability of the lake to provide effective flood control throughout the year. To continue the flood protection functions of the Yazoo Headwater Project as designed and constructed, it will become necessary to continue restoration of the downstream channels to as-built project dimensions or identify other operational alternatives consistent with the authorized purpose of flood control.

Notice is hereby given of the Corps of Engineers, Vicksburg District, decision to prepare a Draft Supplement to the Final Environmental Impact Statement for the Operation and Maintenance of Arkabutla Lake, Grenada Lake, Enid Lake, and Sardis Lake to address impacts of the restoration and maintenance of the channels below the dams at each of the reservoirs.

Alternatives to be considered are:

a. No action—Maintenance activities downstream from the dams at each of the four reservoirs would cease.

b. Structural—Use of mechanical equipment to restore downstream channels to project specifications.

c. Nonstructural—Activities which would preserve the project flood functions but would not require structural changes to the downstream channels.

d. Structural/Nonstructural—A combination of b. and c. above which would preserve the project flood control functions.

In addition to various State agencies, coordination is ongoing with U.S. Fish and Wildlife Service, Environmental Protection Agency, and the U.S.D.A. Soil Conservation Service. Coordination required by other laws and regulations will also be conducted.

A scoping meeting to involve affected Federal, State, and local agencies, and other interested persons will be held on 25 May 1989 at 2 p.m. at the University Inn, 2201 West Jackson Avenue, Oxford, Mississippi. To insure that the full range of issues related to this proposed action is addressed and all appropriate issues identified, interested persons unable to attend the scoping meeting should send comments and questions concerning this proposed action to the address provided below.

DATE: The estimated release date of the DSEIS for public review is 30 September 1989.

ADDRESS: If additional information is needed, please contact Mr. W. Harold Lee, Regulatory Branch, U.S. Army Corps of Engineers, P.O. Box 60, Vicksburg, Mississippi 39181-0060, telephone (601) 631-7104.

Dated: May 8, 1989.

Francis R. Skidmore,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 89-11588 Filed 5-12-89; 8:45 am]

BILLING CODE 3710-PU-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, 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 June 14, 1989.

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, Office of Information Resources Management, 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) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) 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: May 9, 1989.

Carlos U. Rice,

Director, for Office of Information Resources Management.

Office of Vocational and Adult Education

Type of Review: Extension.
Title: Performance Report for State Administered Vocational Education.
Frequency: Annually.
Affected Public: State and local governments.
Reporting Burden:
Responses: 53.
Burden Hours: 2,544.
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0.
Abstract: State Boards for Vocational Education must submit state plans under the Carl D. Perkins Vocational Education Act, as amended. The Department uses the information to determine compliance with the Act.

[FR Doc. 89-11547 Filed 5-12-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intent to Award Grant to 1989 International Conference on Coal Science

AGENCY: U.S. Department of Energy.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b), it plans a noncompetitive award under Grant number DE-FG01-89FE61773 to the 1989 International Conference on Coal Science.

SCOPE: This grant will co-fund the 5-day 1989 International Conference on Coal Science (ICCS), sponsored by the International Energy Agency's (IEA) Coal Research Service, which will highlight U.S. and international research and development activities in coal science. Particular emphasis will be placed on the fundamentals of coal research. The purpose of the seminar is to promote an exchange of information and ideas between the world's scientific communities researching coal science.

Eligibility for award of this grant shall be limited to the conference organizer, the 1989 International Conference on Coal Science. ICCS is the temporary foundation created for the purpose of organizing the next Coal Science seminar. This foundation is based in Tokyo, Japan, which the Fossil Fuel Working Party at the 1987 conference in Maastrict, the Netherlands, designated as the next conference site.

Although there have been a large number of conferences on coal technology, covering liquefaction and coal utilization, this has not been the case for coal science. Consequently, the conferences on coal science research, the need for which IEA recognizes and supports, have filled a gap and provided a catalyst in further research and development in the field. These conferences have become particularly important in the last several years as the result of renewed interest in coal. ICCS is the only known organization conducting or planning to conduct such conferences on coal science in the near future.

The seminar will be sponsored by IEA Coal Research Service and conducted by the 1989 International Conference on Coal Science. Each IEA member country is contributing to the conference. DOE is the U.S. representative to the Coal Research Service and it will provide the U.S. contribution. DOE support of the seminar will enhance the public benefits by increasing the cooperative

information exchange among the coal science research communities.

The term of this grant shall be from approximately July 1, 1989, through November 27, 1989. DOE's contribution to the seminar's cost is estimated at $68,000.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Gretchen Hukill, MA–452.1, 1000 Independence Avenue SW., Washington, DC 20585, Telephone No. (202) 586–6753.

Jeffrey Rubenstein,

Director, Contract Operations Division "A", Office of Procurement Operations.

[FR Doc. 89–11598 Filed 5–12–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3570–4]

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 June 8 & 9, 1989, at the Holiday Inn–Central, 1501 Rhode Island Avenue, NW., Washington, DC. The meeting will be held from 9:00 a.m. to 5:00 p.m. on June 8th and from 9:00 a.m. to 12:00 p.m. on June 9th.

The purpose of this meeting is to complete the reports on disinfection and disinfection by-products and arsenic. Also, to brief the Subcommittee on current and future activities of the Office of Drinking Water. The meeting will be open to the public. Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothern, Executive Secretary, Science Advisory Board (A–101F)), U.S. Environmental Protection Agency, Washington, DC, 20460, or contact him on (202) 382–2552 by March 24, 1989. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Donald G. Barnes,

Director, Science Advisory Board.

Dated: May 8, 1989.

[FR Doc. 89–11587 Filed 5–12–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Common Carrier Public Mobile Services Information; Second Public Notice Regarding Applications for Nationwide Paging Frequency

May 2, 1989.

A number of questions have been raised regarding network organizer applications for the remaining nationwide paging frequency (931.8875 MHz). Further information regarding these areas follows. The first public notice addressing these application requirements was released April 13, 1989. 54 FR 15991 (April 20, 1989).

Schedule B of the Form 401 is not required to be filed with the network organizer application. The engineering showing required to be filed with these applications is described in § 22.527 of the Rules. However, the cities in which the applicant intends to operate must be specified.

It is not necessary to file the model tariff required by § 22.527(b)(6). *See Third Report and Order*, 97 F.C.C.2d 900 (1984).

The license grant will be conditioned on the licensee filing a minimum of fifteen network operator applications within a year, and on filing network operator applications for a fully nationwide system within two years from the date of grant. The grant will be further conditioned on fulfilling the construction and operation requirements of the network organizer license. Network operator applications must be filed on a Form 401.

The filing fee for a network organizer application is $200.00.

Amendments required by § 1.65 of the Commission's Rules should be filed only by the tentative selectee.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–11504 Filed 5–12–89; 8:45 am]

BILLING CODE 6712–01–M

[DA 89–353]

Average Schedules for Compensation of Use of Local Exchange Carriers Networks for Interstate Calls

AGENCY: Federal Communications Commission.

ACTION: Final settlement schedule.

SUMMARY: The Common Carrier Bureau of the Federal Communications Commission has approved revisions to the average schedules governing the compensation received by certain local exchange carriers (LECs) for the use of their networks in originating and terminating interstate calls. The average schedule revisions were proposed by the National Exchange Carrier Association (NECA) in response to a Bureau order rejecting an earlier set of proposals and providing guidance for new revisions. The schedules were revised to conform to changes in Parts 32, 36, and 69 of the Commission's rules, revised cost allocation rules, and changes in the Tax Reform Act of 1986. In addition, the revised schedules contain new formulas for reimbursement of Carrier Access Billing settlements (CABS) and Administrative Expenses, a new distance-sensitive line haul facility formula, a new common line formula, and a new transition plan. The Bureau order approves all aspects of the proposed revisions, except that it requires NECA to modify its proposed transition plan.

EFFECTIVE DATE: April 1, 1989.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steven Gorosh, Policy and Program Planning Division, Common Carrier Bureau (202) 632–4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order (DA 89–353), adopted March 29, 1989, and released March 31, 1989. The full text of the 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.

Summary of Memorandum Opinion and Order

1. On October 3, 1988, the National

Exchange Carrier Association (NECA) proposed revisions to the interstate average schedules. The revisions were filed in response to an order released December 21, 1987 (the 1987 Order) that declined to accept proposed revisions to the average schedules filed by NECA on June 30, 1987. The 1987 Order directed NECA to file amended revisions that brought the average schedules into conformance with changes in Parts 32, 36, and 69 of the Commission's rules, revised cost allocation rules, and changes in the Tax Reform Act of 1986.

2. NECA stated that its October 1988 proposal was based on a newly completed statistical sample of cost and average schedule companies that reflected updated data and complied with the Commission rule requiring that the average schedules simulate the disbursements received by comparable cost companies. NECA stated that it revised the average schedules, as the Bureau required in the 1987 Order, to adjust for the Tax Reform Act of 1986, the adoption of a new Part 32 Uniform System of Accounts (USOA), new part 36 Separations procedures, USOA conformance changes, new rate base rules, and the joint cost rules. NECA also stated that it adopted a new formula structure for the reimbursement of CABS and access administration costs that was consistent with the 1987 order.

3. NECA contended that since June 1986, when its last revisions became effective, significant industry changes had resulted in a shift in cost recovery away from the interstate jurisdiction, and the revised schedules reflect a total annual settlement reduction of about $49 million, or an overall 10.5% reduction in average schedule settlements. NECA determined that this reduction in settlements should be phased in over a two-year transition period. NECA also proposed a new distance-sensitive line haul facility formula based on new statistical data.

4. The Bureau approved the proposed schedule revisions, agreeing with the vast majority of commenters that the proposed revisions were an improvement over the existing schedules. The Bureau found that that proposed revisions complied with the Bureau's directive that NECA conform the schedules to reflect recent regulatory changes, and rejected challenges to NECA's new common line and distance sensitive line haul formulas. The Bureau also found that a two year transition plan was appropriate to allow companies to adjust to reductions in settlements. However, the Bureau directed NECA to modify its schedules so that no company experienced average monthly settlements over the fifteen month expected life of the average schedules in excess of 10% over current settlement levels. The Bureau rejected several alternative transition plans as unjustified and unduly expensive.

5. The final, approved settlement schedules are as follows:

(A) Common Line Basic Formula

(1) For access lines per exchange less than 385.55, the settlement per access line per month would be: $12.982078 − ($.015532 × Access Lines Per Exchange).

(2) For access lines per exchange greater than or equal to 385.55, the settlement per access line per month would be $6.993457.

(B) Traffic Sensitive Central Office

The settlement per minute per month would be $.030216 + ($191.497493/Minutes Per Exchange).

(C) Intertoll Switching (B6)

The settlement per month per trunk would be $29.18.

(D) Line Haul Switched Circuit Termination (Non-Distance Sensitive)

The settlement per month would be $34.05 per termination.

(E) Line Haul Facility (Distance Sensitive)

The settlement per month would be ($1.165293 × Interstate Circuit Miles) + ($0.001554 × TS Minutes per month).

(F) Special Access

Settlement = .939959 × Revenues.

(G) CABS and Administrative

Settlement = $385.90 + ($.000486 × TS Minutes).

Ordering Clause

6. *Accordingly it is ordered,* pursuant to the authority that is contained in §§ 0.91 and 69.606(a) of the Commission's rules, 47 CFR 0.91 and 69.606(a), that the revisions to the average schedules that have been proposed by the National Exchange Carrier Association *are provided* subject to the conditions described herein.

Federal Communications Commission.

Gerald Brock,

Chief, Common Carrier Bureau.

[FR Doc. 89-11562 Filed 5-12-89; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1779]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

May 5, 1989.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202-857-3800). Oppositions to these petitions must be filed May 31, 1989. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 1, 21, 22, 74, and 94 of the Commission's Rules to Establish Service and Technical Rules for Government and non-Government Fixed Service Usage of the Frequency Bands 932-935 MHz and 941-944 MHz. (Gen. Docket No. 82-243)
Number of petitions received: 5.

Subject: Flexible allocation of frequencies in the Domestic Public Land Mobile Service for paging and other services. (CC Docket No. 87-120)
Number of petitions received: 2.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Moscow, Ohio; Paris, Wilmore, Morehead, Falmouth, Winchester, Carrollton, Elizabethtown, Dry Ridge, Somerset, and Williamstown, Kentucky) (MM Docket No. 88-31, RM's 5682, 5848, 5979, 6166, 6384 & 6385)
Number of petitions received: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-11505 Filed 5-12-89; 8:45 am]

BILLING CODE 6712-01-M

Travel Reimbursement Program, January 1, 1989-March 31, 1989; Summary Report

Total Number of Sponsored Events: 16.

Total Number of Sponsoring Organizations: 19.

Total Number of Commissioners/Employees Attending: 37.

Total Amount of Reimbursement Expected:

Transportation	$11,915.00
Subsistence	9,793.21
Other expenses	1,660.74
Total	23,368.95

Individual Event Reports Attached. Amount of Reimbursement Shown May be Estimated.

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: INTV Association of Independent Television Stations, Inc., 1200 Eighteenth St., NW., Suite 502, Washington, DC 20036.

Date of the Event: January 4, 1989.

Description of the Event: To participate in INTV's 16th Annual National Convention.

Commissioners Attending: Dennis R. Patrick, Chairman, James H. Quello, Commissioner.

Other Employees Attending: Diane Killory—General Counsel; Johhn F. Kamp—Director, Office of Public Affairs; David L. Donovan—Legal Assistant to Commissioner Quello; Noel C. R. Gunther—Legal Assistant to Commissioner Dennis; Lisa A. Hook—Legal Assistant, Office of the Chairman; Renee Licht—Attorney Advisor, Mass Media Bureau; John Haring—Chief, Office of Plans and Policy; Alex D. Felker—Chief, Mass Media Bureau; Bradley P. Holmes—Chief, Policy and Rules Division, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$4,181.63
Subsistence	4,614.75
Other expenses	433.69
Total	$9,230.07

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Los Angeles Copyright Society, c/o National Broadcasting Company, 3000 West Alameda Avenue, Burbank, CA 91523.

Date of the Event: January 4, 1989.

Description of the Event: To speak before the Los Angeles Copyright Society.

Commissioners Attending: None.

Other Employees Attending: Diane Killory—General Counsel.

Amount of Reimbursement:

Transportation	$.00
Subsistence	77.28
Other expenses	.00
Total	77.28

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Electronic Industries Association, 2001 Eye Street, NW., Washington, DC 20006.

Date of the Event: January 8, 1989.

Description of the Event: To participate in the Electronic Industries Association Winter Consumer Show.

Commissioners Attending: None.

Other Employees Attending: Alex D. Felker—Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$151.37
Subsistence	211.95
Other expenses	40.80
Total	404.12

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: NYNEX Service Company, 120 Bloomingdale Road, White Plains, NY 10605.

Date of the Event: January 16, 1989.

Description of the Event: To attend the Information Industry Liaison Committee (IILC) Meeting.

Commissioners Attending: None.

Other Employees Attending: Thomas J. Sugrue—Chief, Policy and Program Planning Division, Common Carrier Bureau; Raymond L. Dujack—Electronics Engineer, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$618.00
Subsistence	476.50
Other expenses	104.93
Total	1,199.43

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Cellular Telecommunications Industry Association, 1990 M Street NW., Suite 610, Washington, DC 20036.

Date of the Event: January 23, 1989.

Description of the Event: To attend winter meeting of The Cellular Telecommunications Industry Association.

Commissioners Attending: None.

Other Employees Attending: Kevin J. Kelly—Chief, Mobile Services Division; Stephen L. Markendorff—Chief, Cellular Radio Branch; Andrew L. Nachby—Program Analyst; Kent Y. Nakamura—Attorney Advisor, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$1,124.00
Subsistence	863.00
Other expenses	301.51
Total	2,288.51

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: NATPE International, 10100 Santa Monica Blvd., Suite 300, Los Angeles, CA 90067.

Date of the Event: January 24, 1989.

Description of the Event: To participate in the 26th Annual NATPE International Program Conference.

Commissioners Attending: James H. Quello, Commissioner; Patricia D. Dennis, Commissioner.

Other Employees Attending: None.

Amount of Reimbursement:

Transportation	$780.00
Subsistence	667.00
Other expenses	136.83
Total	1,583.83

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: American Bar Association, Forum Committee on Communications Law, 750 North Lake Shore Drive, Chicago, Illinois 60611.

Date of the Event: February 4, 1989.

Description of the Event: To participate in the ABA's Forum on Communications Law Cable Seminar.

Commissioners Attending: None.

Other Employees Attending: Richard J. Bozzelli—Special Assistant, Office of General Counsel.

Amount of Reimbursement:

Transportation	$318.00
Subsistence	115.99
Other expenses	39.60
Total	473.59

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Travel Related Services Company, Inc., TRS Telecommunications Services, P.O. Box 53831, Phoenix, AZ 85072-3831.

Date of the Event: February 23, 1989.

Description of the Event: To participate in The IILC Technical Working Committee Meeting.

Commissioners Attending: None.

Other Employees Attending: Raymond L Dujack—Electronics Engineer, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$400.00
Subsistence	169.00
Other Expenses	77.24
Total	$646.24

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Institute of Electrical and Electronics Engineers, Inc., 115 Starr Avenue, Newington, CT 06111.

Date of the Event: February 25, 1989.

Description of the Event: To participate at the IEEE Conference.

Commissioners Attending: None.

Other Employees Attending: Alex D. Felker—Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$172.00
Subsistence	58.74
Other Expenses	18.47
Total	$249.21

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: West Virginia Broadcasters Association, 2120 Weberwood Drive, South Charleston, WV 25303.

Date of the Event: March 12, 1989.

Description of the Event: To participate as panel speaker at the West Virginia Broadcaster's Association spring meeting.

Commissioners Attending: None.

Other Employees Attending: Jim McNally—Chief, Engineering, Policy Branch, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$.00
Subsistence	132.00
Other Expenses	.00
Total	$132.00

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: International Business Machines Corporation, P.O. Box 12195, Research Triangle Park, NC 27709.

Date of the Event: March 16, 1989.

Description of the Event: To attend the Information Industry Liaison Committee (IILC) Meeting.

Commissioners Attending: None.

Other Employees Attending: William Maher—Special Counsel for Competitive Issues, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$162.00
Subsistence	26.00
Other Expenses	30.15
Total	$218.15

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Hollywood Radio and Television Society, 5315 Laurel Canyon Blvd., North Hollywood, CA 91607-2772.

Date of the Event: January 17, 1989.

Description of the Event: To participate in the Hollywood Radio and Television Society Newsmaker Luncheon.

Commissioners Attending: Dennis R. Patrick, Chairman.

Other Employees Attending: None.

Amount of Reimbursement:

Transportation	$374.00
Subsistence	156.50
Other Expenses	98.87
Total	$629.37

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Group M Communications, Inc., Box 40, Newton, NY 07860.

Date of the Event: March 19, 1989.

Description of the Event: To participate as speaker at the New Jersey Broadcasters Manager's Meeting.

Commissioners Attending: None.

Other Employees Attending: Bradley P. Holmes—Chief, Policy and Rules Division, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$69.00
Subsistence	75.00
Other Expenses	20.00
Total	$164.00

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Texas Cable TV Association, P.O. Box 13518, Austin, TX 78711.

Date of the Event: February 22, 1989.

Description of the Event: To participate as a panel member at the Texas Cable Show.

Commissioners Attending: None.

Other Employees Attending: John P. Wong—Electronics Engineer, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$298.00
Subsistence	241.00
Other Expenses	52.92
Total	$591.92

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Cardiff Publishing Company, Inc., 1990 M. St., NW., Suite 500, Washington, DC 20036.

Date of the Event: March 29, 1989.

Description of the Event: To participate on a panel at the International Mobile Communications Exposition.

Commissioners Attending: None.

Other Employees Attending: Ralph A. Haller—Chief, Private Radio Bureau; Edward Jacobs—Engineering Assistant to the Bureau Chief; Terry Fishel—Chief, Land Mobile Branch, Private Radio Bureau; Gerald P. Vaughan—Deputy Bureau Chief-Operations, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$1,402.00
Subsistence	1,141.00
Other Expenses	106.40
Total	$2,649.40

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: International Telecharge, Inc., 108 South Akard, Dallas, TX 75202.

Date of the Event: March 28, 1989.

Description of the Event: To speak at an International Telecharge, Inc. Round Table Meeting.

Commissioners Attending: None.

Other Employees Attending: Howard M. Wilchins—Acting Chief, Enforcement Division, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$318.00
Subsistence	133.50
Other expenses	18.37
Total	469.87

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Seminars in Regulatory Economics, 2266 West View Drive, P.O. Box 8608, Moscow, Idaho 83843.

Date of the Event: March 16, 1989.

Description of the Event: To speak at the Telecommunications Seminar in Regulatory Economics.

Commissioners Attending: None.

Other Employees Attending: Colleen Boothby—Special Assistant to the Deputy Bureau Chief (Policy)—Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$551.00
Subsistence	100.00

Other expenses	63.80
Total	714.80

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Southwestern Bell Telephone Co., 1010 Pine St., St. Louis, Missouri 63101.

Date of the Event: March 21, 1989.

Description of the Event: To attend the Information Industry Liaison Committee (IILC) Working Meeting.

Commissioners Attending: None.

Other Employees Attending: Raymond L. Dujack—Electronics Engineer, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$338.00
Subsistence	266.00
Other expenses	66.90
Total	672.90

Travel Reimbursement Program Individual Event Report

Sponsoring Organization: Northern Telcom, c/o Diane Randolph, Dept. 4240, P.O. Box 13010, Research Triangle Park, NC 27709.

Date of the Event: March 19, 1989.

Description of the Event: To participate in Northern Telecom's Longboat Key Symposium.

Commissioners Attending: None.

Other Employees Attending: Karl W. Brimmer—Chief, Management Planning and Program Evaluation Office, Office of the Managing Director.

Amount of Reimbursement:

Transportation	$658.00
Subsistence	266.00
Other expenses	50.26
Total	974.26

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-11506 Filed 5-12-89; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 89-3; File Nos. BR-830401ZE and BRH-830331ZZ]

Pyle Communications of Beaumont, Inc.; Applications for Renewal of License of Stations KWIC and KWIC-FM, Beaumont, TX

Memorandum Opinion and Order

Adopted: January 12, 1989.

Released: February 1, 1989.

By the Commission:

1. By *Memorandum Opinion and Order* (Order), released March 26, 1987, 2 FCC Rcd 1793 (1987), the Commission granted the 1983 renewal application of Pyle Communications of Beaumont, Inc. ("Pyle") for Stations KWIC[1] and KWIC-FM, Beaumont, Texas, for a short-term, subject to two particularized equal employment opportunity (EEO) progress reports. By the same order, the Commission denied the petition to deny those applications filed by the National Black Media Coalition and the Beaumont NAACP (collectively "NBMC" or "petitioners"). NBMC appealed to the U.S. Court of Appeals for the District of Columbia Circuit. On August 19, 1988, the court ordered the Commission to hold a hearing to resolve the questions about actual discrimination and about the licensee's failure to meet its affirmative action obligations. *Beaumont Branch of the NAACP and the National Black Media Coalition* v. *FCC*, 854 F.2d 501 (D.C. Cir. 1988). Accordingly, this Order designates for hearing certain issues pursuant to the Court's mandate.[2]

2. Accordingly, *it is ordered*, That the Commission's *Memorandum Opinion and Order*, released March 26, 1987, 2 FCC Rcd 1793 (1987), hereby IS WITHDRAWN and the orders of that date hereby ARE VACATED.

3. *It is further ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), the above-captioned applications are designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine whether the licensee of Stations KWIC and KWIC-FM discriminated in its employment practices against blacks in violation of § 73.2080(a) of the Commission's Rules;

(2) To determine the extent to which the licensee of Stations KWIC and KWIC-FM complied with the affirmative action provisions specified in § 73.2080(b) of the Commission's Rules;

(3) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, a grant of the subject license renewal applications would serve the public interest, convenience and necessity.

4. *It is further ordered*, That the National Black Media Coalition and the Beaumont Branch of the NAACP are made parties to the hearing ordered herein.

5. *It is further ordered*, that, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence upon issues (1) and (2) and the burden of proof with respect to all issues shall be upon the licensee, Pyle Communications, Inc.

6. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the parties respondent herein, pursuant to § 1.221 of the Commission's Rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this Order, a written appearance in triplicate, stating an intention to appear on the date filed for the hearing and present evidence on the issues specified in this Order.

7. *It is further ordered*, That Pyle Communications, Inc. shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in that rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

8. *It is further ordered*, That the Secretary send by Certified Mail-Return Receipt Requested, one copy of this Order to each of the parties to this processing.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-11524 Filed 5-12-89; 8:45 am]

BILLING CODE 6712-01-M

[1] Prior to May 16, 1986, the AM station's call sign was KIEZ.

[2] On February 8, 1988, Pyle Communications of Beaumont, Inc. filed applications for renewal of license for Stations KWIC and KWIC-FM (file nos. BR-880208UB and BRH-880208YJ). These applications were placed on deferred status pending the Court's ruling on this matter. Because the Court's action calls into question Pyle's qualifications to remain a licensee, the 1988 license renewal applications for Stations KWIC and KWIC-FM will remain in deferred status pending the outome of the Commission's hearing on the stations' 1983 renewal applications.

FEDERAL HOME LOAN BANK BOARD

[No. 88-1386]

Mutual to Stock Conversion Application Forms

Date: May 4, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted a request for extension, without revision, an information collection request, "Mutual to Stock Conversion Application Forms," to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This information collection will provide the Bank Board the necessary

information to determine whether a mutual to stock conversion will be fair and equitable to the mutual members. We estimate it will take approximately 500 hours per respondent to complete the information collection.

DATES: Comments on the information collection request are welcome and should be received on or before May 30, 1989.

ADDRESS: Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection requests and supporting documentation are obtainable at the Board address given below: Director, Information Services Division, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Phone: 202–416–2751.

FOR FURTHER INFORMATION CONTACT: J. Larry Fleck, Office of the General Counsel, (202) 906–6413, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89–11493 Filed 5–12–89; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Petition No. P1–89]

Independent Caribbean Line Ltd.; Application for Section 35 Exemption; Filing

Notice is given that Independent Caribbean Line, Ltd., ("ICL") has applied for an exemption pursuant to section 35 of the Shipping Act, 1916, 46 U.S.C. app. 833a. Specifically, ICL seeks an order from the Federal Maritime Commission exempting ICL from compliance with the provisions of section 2, Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844 and the Commission's concordant regulations, so that ICL may publish new or reduced individual commodity rates on not less than one day's notice, for rate items listed in ICL's tariffs in the trade between ports in Puerto Rico and ports on the United States Atlantic and Gulf coasts.

In order for the Commission to make a thorough evaluation of the application for exemption, interested persons are requested to submit views or arguments on the application no later than June 15, 1989. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001 in an original and 15 copies. Responses shall also be served on George A. Quadrino, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, DC 20036.

Copies of the application are available for examination at the Washington, DC office of the Commission, 1100 L Street, NW., Room 11101.

Joseph C. Polking,

Secretary.

[FR Doc. 89–11542 Filed 5–12–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Campbell, R.B. et al.; Acquisitions of Share of Banks or Bank Holding Companies

The notifications listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 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 May 30, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *R.B. Campbell,* Hayden, Kentucky; to acquire an additional 6.3 percent of the voting shares of Hyden Citizens Bancorp, Inc., Hayden, Kentucky, for a total of 23.4 percent, and thereby indirectly acquire Hyden Citizens Bank, Inc., Hyden, Kentucky.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *H. Dale Martin,* Omaha, Nebraska; to acquire an additional 6.37 percent of the voting shares of Nebraska National Corporation, Omaha, Nebraska, for a total of 16.0 percent, and thereby indirectly acquire Nebraska National Bank, Omaha, Nebraska.

2. *Edwin F. Wambsganss,* Longmont, Colorado; to acquire an additional 2.12 percent of the voting shares of Green Mountain Bancorporation, Inc., Lakewood, Colorado, for a total of 23.97 percent, and thereby indirectly acquire Green Mountain Bank, Lakewood, Colorado.

Board of Governors of the Federal Reserve System, May 9, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–11553 Filed 5–12–89; 8:45 a.m.]

BILLING CODE 6210–01–M

The Commercial Bank of Kuwait Sak, et al.; Notice of Applications to Engage de novo in Permissible Nonbaking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the 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 othewise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 30, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Commercial Bank of Kuwait Sak*, Safat, Kuwait; to engage *de novo* through its subsidiary, CBK America Finance, Inc., Dover, Delaware, in making, acquiring, arranging, and servicing commercial and commercial real estate or other extensions of credit pursuant to § 225.25(b)(1); making, acquiring, arranging, and servicing leases on personal or real property pursuant to § 225.25(b)(5); factoring pursuant to § 225.25(b)(1); and buying, selling, or dealing in notes, open accounts and other similar evidence of debt pursuant to § 225.25(b)(1) of the Board's Regulation Y. These actitivities will be conducted in the United States and United Kingdom.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Summit Bank Corporation*, Atlanta, Georgia; to engage *de novo* through its subsidiary, Summit Merchant Banking Corporation, Atlanta, Georgia, in acting as investment or financial advisor to clients of Company pursuant to § 225.25(b)(4); and acting as intermediary for the financing of commercial or industrial income-producing real estate by arranging for the transfer of the title, control and risk of such a real estate project to one or more investors pursuant to § 225.25(b)(14) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 9, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-11554 Filed 5-12-89; 8:45 am]

BILLING CODE 6210-01-M

United Counties Bancorporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 2, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *United Counties Bancorporation*, Cranford, New Jersey; to acquire 15.0 percent of the voting shares of Central Jersey Bancorp, Freehold, New Jersey, and thereby indirectly acquire Central Jersey Bank & Trust Company, Manalapan, New Jersey.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Fulton Bancshares Corporation*, McConnellsburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Fulton County National Bank and Trust Company, McConnellsburg, Pennsylvania.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Boulevard Bancorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of Northwest Financial Corp., Chicago, Illinois, and thereby indirectly acquire The National Security Bank of Chicago, Chicago, Illinois.

2. *Miami Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of Northwest Financial Corp., Chicago, Illinois, and thereby indirectly acquire The National Security Bank of Chicago, Chicago, Illinois.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Campbell Hill Bancshares, Inc.*, Campbell Hill, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Campbell Hill, Campbell Hill, Illinois. The target bank only engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

2. *F & P Bancshares, Inc.*, Lexington, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First Bancorp of Springfield, Inc., Springfield, Kentucky, and thereby indirectly acquire First & Peoples Bank, Springfield, Kentucky. The target bank only engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

3. *Peoples First Corporation*, Paducah, Kentucky, and its wholly-owned subsidiary, PFC Acquisition, Inc., Paducah, Kentucky; to acquire 100 percent of the voting shares of Salem Bank, Inc., Salem, Kentucky. The target bank only engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *SPC/CBSI Acquisiton Inc.*, Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of Southwest Bank, Vista, California.

2. *Security Pacific Corporation*, Los Angeles, California; to acquire 100 percent of the voting shares of Southwest Bancorp, Vista, California, and thereby indirectly acquire Southwest Bank, Vista, California.

Board of Governors of the Federal Reserve System, May 9, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-11555 Filed 5-12-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meetings in June

Summary: This notice sets forth the schedule and proposed agendas of the forthcoming meetings of the agency's initial review committees and national advisory councils in the month of June 1989. These committees will be performing review of applications for Federal assistance. Therefore, portions

of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92–463.

Committee Name: Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA

Date and Time: May 31–June 2: 9:00 a.m.

Place: The Georgetown Dutch Inn, 1075 Thomas Jefferson Street, NW., Washington, DC 20007–3861

Status of Meeting: Open—May 31: 9:00–10:00 a.m. Closed—Otherwise

Contact: Lenore Sawyer Radloff, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and research training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Aging Subcommittee of the Life Course and Prevention Research Review Committee, NIMH

Date and Time: June 1–2: 9:00 a.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008

Status of Meeting: Open—June 1: 9:00–9:30 a.m. Closed—Otherwise

Contact: Naomi Lichtenberg, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857

Purpose The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health, in the fields of child, family, and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Biological and Neurosciences Subcommittee of the Mental Health Small Grant review Committee, NIMH

Date and Time: June 1–2: 9:00 a.m.

Place: The Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008

Status of Meeting: Open—June 1: 9:00–10:00 a.m. Closed—Otherwise

Contact: Monica Woodfork, Room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences.

Committee Name: Clinical and Behavioral Sciences Subcommittee of the Mental Health Small Grant review Committee, NIMH

Date and Time: June 1–2: 9:00 a.m.

Place: The Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008

Status of Meeting: Open—June 1: 9:00–10:00 a.m. Closed—Otherwise

Contact: Kimberly Crown, Room 9C–05, Parklawn Buildeing, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4843

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences.

Committee Name: Psychobiology and Behavior Research Review Committee, NIMH

Date and Time: June 1–2: 9:00 a.m.

Place: The Days Inn—Congressional Park 1775 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—June 1: 9:00–10:00 a.m. Closed—Otherwise

Contact: Doris East, Room 9C–26, Parklawn Building 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Cognition, Emotion, and Personality Research Review Committee, NIMH

Date and Time: June 1–3: 9:00 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815

Status of Meeting: Open—June 1: 9:00–10:00 a.m. Closed—Otherwise

Contact: Shirley Maltz, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the fields of personality, cognition, emotion, and higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA

Date and Time: June 5–7: 9:00 a.m.

Place: Old Town Holiday Inn, 480 King Street, Alexandria, VA 22314

Status of Meeting: Open—June 5: 9:00–9:30 a.m. Closed—Otherwise

Contact: Ronald Suddendorf, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Clinical Biology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH

Date and Time: June 5–7: 9:00 a.m.

Place: The Hampshire Hotel, 1310 New Hampshire Avenue, N.W., Washington, DC 20036

Status of Meeting: Open—June 5: 9:00–10:00 a.m. Closed—Otherwise

Contact: Maureen Eister, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1340

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Menatal Health for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Research Scientist Development Review Committee, NIMH

Date and Time: June 5–7: 9:00 a.m.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—June 5: 9:00–10:00 a.m. Closed—Otherwise

Contact: Pamela Roddy, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6470

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Criminal and Violent Behavior Research Review Committee, NIMH

Date and Time: June 7-9: 9:15 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814

Status of Meeting: Open—June 7: 9:15-10:00 a.m. Closed—Otherwise

Contact: Peg Lyons, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to the mental health aspects of criminal, delinquent, and antisocial behavior; individual violent behavior; sexual assault; and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Cellular Neurobiology and Psychopharmacology Subcommittee of the Neurosciences Research Review Committee, NIMH

Date and Time: June 8-9: 8:30 a.m.

Place: Hodiday Inn Crown Plaza, 1750 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—June 8: 8:30-9:30 a.m. Closed—Otherwise

Contact: Barbara Campbell, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3944

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral neurobiology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH

Date and Time: June 9-9: 9:00 a.m.

Place: Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814

Status of Meeting: Open—June 8: 9:00-10:00 a.m. Closed—Otherwise

Contact: Richard Marcus, Room 9C-14, Parklawn Building, 5600 Fishers Lane, Rockville, 20857, (301) 443-1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for suport of research and research training activities in the fields of treatment development assessment, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Behaviorial Neurobiology Subcommittee of the Neurosciences Research Review Committee, NIMH

Date and Time: June 8-10: 8:30 a.m.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—June 8: 8:30-9:30 a.m. Closed—Otherwise

Contact: Gerry Perlman, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research trianing activities relating to behavioral neurobiology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee, NIMH

Date and Time: June 8-10: 8:30 a.m.

Place: The Capitol Hill Hotel, 200 C Street, SE., Washington, DC 20003

Status of Meeting: Open—June 8: 8:30-9:30 a.m. Closed—Otherwise

Contact: Christina De Mare, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville MD 20857, (301) 443-3857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Phychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH

Date and Time: June 12-13: 9:00 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815

Status of Meeting: Open—June 12: 9:00-10:00 a.m. Closed—Otherwise

Contact: Frances Smith, Room 9C-02, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-4868

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment and makes recommendtions to the National Advisory Mental Health Council for final review.

Committee Name: Epidemiology Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH

Date and Time: June 12-14: 9:00 a.m.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209

Status of Meeting: Open—June 12: 9:00-10:00 a.m. Closed—Otherwise

Contact: Gloria Yockelson, Room 9C-14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clinical Program Projects and Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH

Date and Time: June 15-16: 9:00 a.m.

Place: The Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20857

Status of Meeting: Open—June 16: 9:00-10:00 a.m. Closed—Otherwise

Contact: Richard Marcus, Room 9C-14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National

Institute of Mental Health for support of mental health clinical research centers, clinical program projects, and other large-scale multi-disciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA

Date and Time: June 16–18: 9:00 a.m.

Place: Vail Beaver Creek Hotel, P.O. Box 915, Beaver Creek, CO 81620

Status of Meeting: Open—June 16: 8:00–9:00 a.m. Closed—Otherwise

Contact: Samir Zakhari, Room 16C–2C, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Small Business Research Review Committee, NIMH

Date and Time: June 19–20: 9:00 a.m.

Place: Canterbury Hotel, 1733 N Street, NW., Washington, DC 20036

Status of Meeting: Open—June 19: 9:00–10:00 a.m. Closed—Otherwise

Contact: Gloria Levin, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367

Purpose: The Committee is charged with the initial review of applications requesting support from the National Institute of Mental Health for small businesses involved in mental health research. Final review and recommendations are made from the National Advisory Mental Health Council.

Committee Name: Clinical Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA

Date and Time: June 19–21: 8:30 a.m.

Place: Carlyle Suites, 1731 New Hampshire Avenue, NW., Washington, DC 20009

Status of Meeting: Open—June 19: 8:30–9:30 a.m. Closed—Otherwise

Contact: Thomas D. Sevy, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Drug Abuse Epidemiology and Prevention Research Review Committee

Date and Time: June 19–22: 8:30 a.m.

Place: Woodmont Room, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852

Status of Meeting: Open—June 19: 8:30–9:30 a.m. Closed—Otherwise

Contact: Raquel Crider, Room 10–42, Parklawn Building, Rockville, MD, 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Services Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH

Date and Time: June 21–23: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814

Status of Meeting: Open—June 21: 9:00–10:00 a.m. Closed—Otherwise

Contact: Gloria Yockelson, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Mental Health Behavioral Sciences Research Review Committee, NIMH

Date and Time: June 22–24: 9:00 a.m.

Place: Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, MD 20814

Status of Meeting: Open—June 22: 9:00–10:00 a.m. Closed—Otherwise

Contact: Sheila O'Malley, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Substantive information, summaries of the meetings, and rosters of committee members may be obtained as follows: Ms. Diana Widner, NIAAA Committee Management Officer, Room 16C–20, 443–4375; Ms. Camilla Holland, NIDA Committee Management Officer, Room 10–42, (301) 443–2620; Ms. Joanna Kieffer, NIMH Committee Management Officer, Room 9–105, (301) 443–4333. The mailing address for the above parties is: Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Date: May 9, 1989.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89–11563 Filed 5–12–89; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 89F–0127]

General Foods USA; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that General Foods USA has filed a petition proposing that the food additive regulations be amended to include the use of aspartame in refrigerated ready-to-serve puddings and fillings.

FOR FURTHER INFORMATION CONTACT: Carl L. Giannetta, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. 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 9A4143) has been filed by General Foods USA, 250 North St., White Plains, NY 10625, proposing that the food additive regulations be amended to include the use of aspartame in refrigerated ready-to-serve pudding and fillings.

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: April 28, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-11494 Filed 5-12-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89P-0074]

Canned Wax Beans Deviating From the Standard of Identity; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Seymour Canning Co. to market test experimental packs of canned wax beans containing added glucono delta-lactone. The glucono delta-lactone is added to maintain an equilibrium pH below 4.6, to reduce thermal process time, and to enhance the color, texture, and flavor of the product. This temporary permit will allow the applicant to measure consumer acceptance of the product.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than August 14, 1989.

FOR FURTHER INFORMATION CONTACT: Arthur R. Johnson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0112.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identify promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Seymour Canning Co., 530 East Wisconsin St., P.O. Box 5, Seymour, WI 54165. A previous temporary permit issued to the same firm for the same product was in effect for a 15-month period that ended April 8, 1988. (See 52 FR 706, January 8, 1987; and 52 FR 34304, September 10, 1987.) On October 26, 1988, the firm submitted a citizen petition requesting amendment of the standard of identity for canned green beans and canned wax beans in 21 CFR 155.120 to permit the use of glucono delta-lactone (Docket No. 88P-0373/CP).

The permit covers limited interstate marketing tests of experimental packs of canned wax beans. The test product deviates from the standard of identity for canned wax beans prescribed in § 155.120 *Canned green beans and canned wax beans* (21 CFR 155.120) in that glucono delta-lactone is added in an amount reasonably necessary to maintain an equilibrium pH below 4.6, to reduce thermal process time, and to enhance the color, texture, and flavor of the product. The level of glucono delta-lactone added is from 0.06 to 0.10 ounce per 16 ounces net weight of finished product (0.37 to 0.62 percent). With the exception of this variation, the product meets all the requirements of 21 CFR 155.120.

The permit provides for the temporary marketing of 20,000 cases containing 6 sixe 603 x 700 cans each and 10,000 cases containing 24 size 303 x 406 cans each of the test product.

The test product will be manufactured at Seymour Canning Co., 530 East Wisconsin St., Seymour, WI 54165, and will be distributed in Wisconsin, Minnesota, Michigan, Indiana, and Ohio.

The principal display panel of the label states that the product name is "Cut Wax Beans" and each of the ingredients is stated on the label as required by applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than August 14, 1989.

Dated: April 28, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-11560 Filed 5-12-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Region IV—Atlanta; Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 46, No. 223, pp. 56927-56928, dated Thursday, November 19, 1981; Vol. 48, No. 196, pp. 46446-46447, dated Wednesday, October 12, 1983; and Vol. 53, No. 195, pp. 39525-39526, dated Friday, October 7, 1988) is amended to reflect a reorganization within Region IV, Office of the Associate Administrator for Operations (AAO). Region IV is reorganizing from a functional structure to a programmatic structure with respect to the administration of the Medicaid and Medicare programs. The reorganization is similar to those previously approved in Region I, Boston; Region III, Philadelphia; Region VII, Kansas City; and Region VIII, Denver. This reorganization abolishes the Division of Program Operations and the Division of Financial Operations in Region IV and replaces them with the Division of Medicaid and the Division of Medicare.

The specific amendments to Part F. are described below:

- Section FP.20.D.3., Division of Financial Operations (FP.D (II, IV-VI, IX, and X) C), is amended by deleting Region IV from the title. The new section title reads: Section FP.20.D.3., Division of Financial Operations (FPD (II, V, VI, IX, and X) C.).
- Section FP.20.D.4., Division of Program Operations (FPD (II, IV-VI, IX, and X) D.) is amended by deleting Region IV from the title. The new section reads: Section FP.20.D.4., Division of Program Operations (FPD (II, V, VI, IX, and X) D.).
- Section FP.20.D.5., Division of Medicaid (FPD (I, III, VII, and VIII) E.). is amended to include Region IV. The new section reads:

5. Division of Medicaid (FPD (I, III, IV, VII, and VIII) E.).

Under the direction of the HCFA Regional Administrator, plans, manages, and provides Federal leadership to State agencies in program implementation, maintenance, and the regulatory review of State Medicaid program management activities under Title XIX of the Social Security Act and assures the propriety of Federal expenditures. Provides consultation and guidance to States on appropriate matters including interpretation of Federal requirements, options available to States under these requirements, and information on practices in other States. Maintains day-to-day liaison with State agencies and monitors their Medicaid program activities and practices by conducting periodic program management and financial reviews to assure State adherence to Federal law and regulations. Reviews, approves, and maintains official State plans and plan amendments for medical assistance. Provides consultation to States in the administration of the amount, duration, scope, and reimbursement of health services available under the State program. Reviews, approves, and monitors State reimbursement systems

and determines the allowability or nonallowability of claims for Federal financial participation (FFP); and where State expenditures have not been in accordance with Federal requirements, takes action to disallow such claims. Stimulates State action toward achievement of selected program objectives and monitors their progress. Reviews States' quarterly statements of expenditures and recommends appropriate action on amounts claimed. Defers reimbursement action on questionable State claims, reviews the claims for allowability, and recommends appropriate action. Issues orders suspending FFP on behalf of State payments to Title XIX provider institutions and the revocation of such suspension orders. Supports, evaluates, and provides advice on State management information and claims payment systms. Implements Title XIX special initiatives, such as prepaid health plans, health maintenance organizations, and other special or experimental programs, and operations of major management initiatives such as quality control. Where appropriate, provides an opportunity for State input to operational plans, policy, regulations, legislation, and budget formulation. Responds to beneficiary, congressional, provider, and public inquiries concerning Medicaid issues and takes appropriate action on individual case situations. Accepts and responds to Freedom of Information Act requests and on matters concerning the Privacy Act. Supports HCFA headquarters in activities concerning research and demonstration projects.

• Section FP.20.D.6., Division of Medicare (FPD (I, III, IV, VII, and VIII) F.), is amended to include Region IV. The new section reads:

6. Division of Medicare (FPD (I, II, VII, and VIII) F.).

Under the direction of HCFA Regional Administrator, assures the effective administration of the Medicare program through the day-to-day working relationship with Medicare contractors, providers, physicians, the Social Security Administration (SSA) regional office and district office personnel, elements of the Office of Inspector General, and other organizations and individuals concerned with program operations. Assures continuing surveillance and appraisal of Medicare contractors in the administration of health insurance provisions. Identifies problems and initiates action to ensure contractor adherence to national Medicare policy and procedures. Directs Medicare regional financial management activities. Directs a program of in-depth reviews to evaluate the effectiveness of the Medicare program. Conducts quality assurance programs and onsite performance appraisals and analyzes statistical performance reports. Negotiates and approves contractor budget modifications to budget allotments and final cost settlements. Coordinates day-to-day contractor financial management activities. Reviews and approves certain subcontracts and leases, monitors banking activities, and evaluates the cost allocation procedures of contractors. Conducts contractor appraisals. Interprets HCFA's institutional reimbursement policies. Relates appropriately to elements of SSA, providing consultation on Medicare program matters and any other activity necessary to achieve program objectives. Provides direction to Medicare contractors in carrying out their responsibilities for interfacing with peer review organizations. Establishes and maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries. Takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act. Performs regional responsibilities relating to experimental and demonstration projects. Assumes responsibility for program training and assures timely responses to congressional and public inquiries. Relates appropriately to central office components such as providing feedback on operations, activities, and problems, and by providing regional perspectives in the development of Agency policies, objectives, and work plans. In coordination with the Division of Medicaid, handles inter-program activities such as the Medicare buy-in for Medicaid beneficiaries.

Date: April 26, 1989.

Joseph R. Antos,

Acting Associate Administrator for Management.

[FR Doc. 89-11496 Filed 5-12-89; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

Meeting of the Animal Resources Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health. The meeting will be held on June 27, 1989, at the Clarion Hotel, 1241 West Mockingbird Lane, Dallas, Texas 75247. The meeting will be open to the public from 8 a.m. to 8:30 a.m. to discuss administrative matters. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the entire meeting will be closed to the public on June 27, 1989, from approximately 8:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Michael Fluharty, Public Affairs Specialist, Division of Research Resources, Westwood Building, Room 857, 5333 Westbard Avenue, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Westwood Building, Room 10A/18, Bethesda, Maryland 20892, (301) 496-4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-11507 Filed 5-12-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Subcommittee Meetings of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Basic Sciences I Subcommittee, and the Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on June 19-20, 1989, at the Ramada Inn Hotel, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 8 a.m. to 8:40 a.m. on June 19 to discuss administrative details relating to committee business and for program review. Attendance by the public will be

limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting of the Basic Sciences I Subcommittee and Basic Sciences II Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 8:40 a.m. until recess on June 19, and from 8 a.m. until adjournment on June 20. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Geoffrey P. Cheung, Ph.D., Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 3A07, Bethesda, Maryland 20892, telephone (301–496–7465), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11516 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting of the Microbiology and Infectious Diseases Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on June 22–23, 1989, in Building 31C, Conference Room 10, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 1 p.m. to 3 p.m. on June 22, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S.C. and sections 10(d) of Pub. L. 92–463, the meeting of the Microbiology and Infectious Diseases Research Committee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 8:30 a.m. to 1 p.m. and 3 p.m. until recess on June 22, and from 8 a.m. until adjournment on June 23. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Olivia T. Preble, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, Room 3A10, Bethesda, Maryland 20892, telephone (301–496–8208), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11515 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Subcommittee Meetings of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy, Immunology, and Transplantation Research Committee, and its subcommittees on June 22, 1989, at the Holiday Inn Crown Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting will be open to the public from 8:30 a.m. to 10 a.m. on June 22, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting of the Allergy and Clinical Immunology Subcommittee and Transplantation Biology and Immunology Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10 a.m. on June 22, until adjournment. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Kamal K. Mittal, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 3A07, Bethesda, Maryland 20892, telephone (301–496–3528), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11514 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Subcommittee Meetings of the National Advisory Allergy and Infectious Diseases Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious

Diseases, and its subcommittees on June 15–16, 1989 at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

The meeting will be open to the public on June 15 from approximately 8:30 a.m. to 8:45 a.m. for opening remarks of the Institute Director and from 10:15 a.m. to recess for meetings of the Council subcommittees. On June 16 the meeting will be open to the public from approximately 8:30 a.m. until 12:15 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program will include a discussion of AIDS/NON-AIDS in the NIAID extramural support; a discussion of the role of NIAID repositories in today's research environment; a follow-up report on the Ad Hoc Minority Task Force on AIDS; and, a report from each of the Council subcommittees.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 8:45 a.m. until approximately 10:15 a.m. on June 15, in conference rooms 4, 7, and 8 respectively. The meeting of the full Council will be closed from approximately 12:15 p.m. until adjournment on June 16 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Particia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301–496–7291), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855 Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11517 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, May 15–16, 1989, Building 31C, Conference Room 6, 6th Floor, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. Meetings of the Subcommittees of the Board will be held at the times and places listed below. Portions of the Board meeting and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of the meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred J. Lumsden, Committee Management Officer, National Cancer Institute, 9000 Rockville Pike, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and rosters of the Board members, upon request.

Name of Committee: Subcommittee on Minority Manpower Development

Executive Secretary: Dr. Vincent Cairoli, Executive Plaza North, Room 232B, Rockville, MD 20892 (301/496–8580)

Date of Meeting: May 14

Place of Meeting: Building 31C, Conference Room 4

Open: 6 p.m. to adjournment

Agenda: To discuss policies and potential changes regarding recruitment plans for under-represented minorities on institutional training grants.

Name of Committee: Subcommittee on Cancer Centers

Executive Secretary: Judith Whalen, Building 31, Room 11A19, Bethesda, MD 20892 (301/496–5515)

Date of Meeting: May 14

Place of Meeting: Building 31C, Conference Room 7

Open: 7:15 p.m. to adjournment

Agenda: To discuss short and long range plans for the centers program.

Name of Subcommittee: Working Group and Subcommittee on Agenda

Executive Secretary: Dr. Paulette Gray, Westwood Building, Room 852, Bethesda, MD 20892 (301/496–7173)

Date of Meeting: May 15

Place of Meeting: Building 31A, Room 10A03

Open: 12:30 p.m. to 1:30 p.m.

Agenda: To discuss the format and content of future Board meetings.

Name of Committee: National Cancer Advisory Board

Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 10A03, Bethesda, MD 20892 (301/496–5147)

Date of Meeting: May 15 and 16

Place of Meeting: Building 31C, Conference Room 6

Open: May 15, 8:30 a.m. to recess; May 16, 2:30 p.m. to adjournment

Agenda: Reports on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; Subcommittee Reports; and New Business.

Name of Committee: Subcommittee on Information and Cancer Control for Year 2000

Executive Secretary: Mr. Paul Van Nevel, Building 31, Room 10A29, Bethesda, MD (301) 496–6631)

Date of Meeting: May 15

Place of Meeting: Building 31C, Conference Room 8

Open: Immediately following the NCAB to adjournment

Agenda: To discuss measures for reaching the year 2000 goal.

Name of Committee: Subcommittee on Planning and Budget

Executive Secretary: Ms. Judith Whalen, Building 31, Room 11A19, Bethesda, MD (301/496–5515)

Date of Meeting: May 15

Place of Meeting: Building 31C, Conference Room 11A–10

Open: 6:30 p.m. to adjournment

Agenda: To discuss the assumptions for the 1991 by-pass budget.

Name of Committee: Subcommittee on Special Actions for Grants

Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 10A03, Bethesda, MD 20892 (301/496–5147)

Date of Meeting: May 16

Place of Meeting: Building 31C, Conference Room 6

Closed: 8:30 a.m.–2:30 p.m.

Agenda: To review, discuss, and evaluate grant applications.

Catalog of Federal Domestic Assistance Program Numbers: (13.392, Project grants in cancer construction; 13.393, Project grants in cancer cause and prevention; 13.394, Project grants in cancer detection and diagnosis; 13.395, Project grants in cancer treatment; 13.396, Project grants in cancer biology; 13.397, Project grants in cancer centers support; 13.398, Project grants in cancer research manpower; and 13.399, Project grants and contracts in cancer control)

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11509 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, Division of Cancer Biology and Diagnosis; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, National Cancer Institute, June 21–22, 1989. The meeting will be held at the Bethesda Hyatt Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814 on June 21, and on June 22 in Building 31A, Conference Room 2, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on June 22 from 8:30 a.m. to adjournment for discussion and review of the Division extramural and intramural programs. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 21 from 8 p.m. to approximately 10 p.m. for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Biology and Diagnosis. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–3251) will provide substantive program information.

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11510 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

Division of Cancer Treatment Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, June 5–6, 1989, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 5 from 8:30 a.m. to approximately 5 p.m., and again on June 6 from 9:30 a.m. until adjournment, to review program plans, contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 6 from 8:30 a.m. to approximately 9:30 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301–496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A52, National Institutes of Health, Bethesda, Maryland 20892 (301–496–4291) will furnish substantive program information.

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11511 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the Communication Disorders Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Communication Disorders Review Committee of the National Institute on Deafness and Other Communication Disorders, June 12–13, 1989, at the Hyatt Regency of Bethesda, One Metro Center, Bethesda, MD 20814.

This meeting will be open to the public on June 12 from 8:30 a.m. to 9:00 a.m. to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

This meeting will be closed to the public on June 12 from 9:00 a.m. to recess and on June 13 from 8:30 a.m. to adjournment in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of meeting, roster of committee members, and other information pertaining to the meeting can be obtained from Dr. Marilyn Semmes, Executive Secretary of the Communicaton Disorders Review Committee, Federal Building, Room 9C–14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496–9223.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: May 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11518 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Meeting of NIDR Special Grants Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, July 19–20, 1989, in the Guest Quarters Hotel, 7335 Wisconsin Avenue,

Bethesda, Maryland 20814. The Committee will meet in the Montgomery Room. The meeting will be open to the public from 8:30 a.m. to 9 a.m. on July 19 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 19 from 9 a.m. to recess, and on July 20 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 519, Bethesda, MD 20892 (telephone 301/496–7658), 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; 13–845A—Dental Research Institute; National Institutes of Health)

Dated: May 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11519 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Subcommittees B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of Subcommittees B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK).

These meetings will be open to the public to discuss administrative details at the beginning of the first session of the first day of meetings. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Edith Wynkoop, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, Room 9A19, Bethesda, Maryland 20892, 301–496–6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Diabetes and Digestive and Kidney Diseases, Special Grants Review Committee, Subcommittee B.

Executive Secretary: Judith M. Podskalny, Westwood Building, Room 417A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7841.

Dates of Meeting: May 24–25, 1989.

Place of Meeting: Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814

Open: May 24, 6:00 p.m.—6:30 p.m.

Closed: May 24, 6:30 p.m. to recess. May 25, 7:00 a.m. to adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases, Special Grants Review Committee, Subcommittee C.

Executive Secretary: Tommie Sue Tralka, Westwood Building, Room 417, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–8830.

Date of Meeting: July 18, 1989.

Place of Meeting: Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: July 18, 8:30 a.m.—9:30 a.m.

Closed: July 18, 9:30 a.m. to adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases, Special Grants Review Committee, Subcommittee D.

Executive Secretary: William E. Elzinga, Westwood Building, Room 421, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7546.

Date of Meeting: June 6, 1989.

Place of Meeting: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: June 6, 8:00 a.m.—8:30 a.m.

Closed: June 6, 8:30 a.m. to adjournment.

Dated: May 2, 1989.

Betty Beveridge,

NIH Committee Management Officer.

[FR Doc. 89–11520 Filed 5–12–89; 8:45am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Trials Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 25–28, 1989, at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

The meeting will be open to the public on June 25, from 6:30 p.m. to approximately 7:30 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 25 from approximately 7:30 p.m. to recess, and from 8:00 a.m. on June 26, to adjournment on June 28, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. David M. Monsees, Jr., Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, Room 550B, Bethesda, Maryland 20892, (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Progam Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Disease Research; 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: May 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-11512 Filed 5-12-89; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Research Manpower Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 25-28, 1989, at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

This meeting will be open to the public on June 25, from 8 p.m. to approximately 9:30 p.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 26 from approximately 8 a.m. until adjournment on June 28, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Kathryn W. Ballard, Executive Secretary, NHLBI, Westwood Building, Room 550, Bethesda, Maryland 20892, (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Progam Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: May 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-11513 Filed 5-12-89; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for May through June 1989, and the individuals from who summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personl privacy.

The Office of Committee Management, Division of Research Grant, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telphone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	May-June, 1989 meetings	Time	Location
Allergy & Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301-496-7380	June 15-17	8:30	Crowne Plaza, Rockville, MD.
Bacteriology & Mycology-1, Dr. Timothy J. Henry, Rm. 306, Tel. 301-496-7340	June 14-16	8:30	Holiday Inn, Georgetown, DC.
Bacteriology & Mycology-2, Dr. William Branche, Jr., Rm. 306, Tel. 301-496-7682.	June 7-9	8:00	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Dr. Joan Rittenhouse, Rm. 438, Tel. 301-496-7109	June 14-16	9:00	Omni Georgetown Hotel, Washington, DC.
Biochemical Endocrinology, Dr. Michael Knecht, Rm. 226, Tel. 301-496-7430	June 7-9	8:30	NIH, Room 9, Bldg. 31C, Bethesda, MD.
Biochemistry-1, Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301-496-7516	June 7-10	8:30	Westpark Hotel, Arlington, VA.
Biochemistry-2, Dr. Alex Liacouras, Rm. 318A, Tel. 301-496-7517	June 15-17	8:30	Rosslyn Westpark Hotel, Arlington, VA.
Bio-Organic & Natural Products Chemistry, Dr. Asher Hyatt, Rm. 348, Tel. 301-496-7071.	June 22-24	9:00	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301-496-7070	June 15-17	8:30	The Savoy Suites Hotel, Washington, DC.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	May 22-24	9:00	The Savoy Suites Hotel, Washington, DC.
Cardiovascular & Pulmonary, Dr. Gordon L. Johnson, Rm. 439A, Tel. 301-496-7316.	June 14-16	8:00	Crowne Plaza, Rockville, MD.
Cardiovascular & Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901	June 5-7	8:30	Crowne Plaza, Rockville, MD.
Cellular Biology and Physiology-1, Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396.	June 7-9	7:00 p.m.	Conference Rm. B119, Federal Building, Bethesda, MD.
Cellular Biology and Physiology-2, Dr. Gerhard Ehrenspeck, Rm. 304, Tel. 301-496-7681.	June 19-21	8:30	Holiday Inn, Georgetown, DC.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078	June 19-21	8:00	Holiday Inn, Chevy Chase, MD.
Diagnostic Radiology, Dr. Catharine Wingate, Rm. 219B, Tel. 301-496-7650	June 8-10	8:30	Breckenridge Frontenac, St. Louis, MO.
Endocrinology, Dr. Harry Brodie, Rm. 333, Tel. 301-496-7346	June 18-20	8:30	WC Roosevelt Hotel, Seattle, WA.
Epidemiology & Disease Control-1, Dr. Sooja Kim, Rm. 203C, Tel. 301-496-7246.	June 7-9	8:30	Holiday Inn, Georgetown, DC.
Epidemiology & Disease Control-2, Dr. Horace Stiles, Rm. 340, Tel. 301-496-7246.	June 7-9	8:00	Marbury House, Georgetown, DC.

Study section	May-June, 1989 meetings	Time	Location
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301-496-7940.	June 13-15	8:30	Guest Quarters, Bethesda, MD.
Experimental Immunology, Dr. Calbert Laing, Rm. 222B, Tel. 301-496-7238	June 7-9	8:00	Holiday Inn, Georgetown, DC.
Experimental Therapeutics-1, Dr. Philip Perkins, Rm. 221, Tel. 301-496-7839	June 26-28	8:00	Crown Plaza, Rockville, MD.
Experimental Therapeutics-2, Dr. Marcia Litwack, Rm. 2A03, Tel. 301-496-8848	June 29-30	8:00	Crown Plaza, Rockville, MD.
Experimental Virology, Dr. Garrett V. Keefer, Rm. 206, Tel. 301-496-7474	June 12-14	8:30	NIH, Room 7, Bldg. 31C, Bethesda, MD.
General Medicine A-1, Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	June 5-7	8:30	NIH, Room 4, Bldg. 31C, Bethesda, MD.
General Medicine A-2, Dr. Mustaq Khan, Rm. 354B, Tel. 301-496-7140	June 21-23	8:00	NIH, Room 6, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Daniel McDonald, Rm. 322, Tel. 301-496-7730	June 7-9	8:00	Marbury House, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 349, Tel. 301-496-7271	June 8-10	9:00	NIH, Room 8, Bldg., 31C, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 1A03, Tel. 301-496-7494	June 28-30	8:30	Channel Inn, Washington, DC.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301-496-7508	June 8-10	8:00	Hyatt Regency, Bethesda, MD.
Hematology-2, Dr. Jerrold Fried, Rm. 355B, Tel. 301-496-7508	June 14-16	8:00	Ramada Inn, Bethesda, MD.
Human Development & Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	June 14-16	9:00	Guest Quarters, Bethesda, MD.
Human Development & Aging-2, Dr. Louis Quatrano, Rm. 305, Tel. 301-496-7640.	June 7-9	9:00	Ramada Inn, Bethesda, MD.
Human Development & Aging-3, Dr. Anita Sostek, Rm. 203A, Tel. 301-496-9403	June 12-14	8:30	Marbury House, Georgetown, DC.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 319A, Tel. 301-496-7597.	June 27-28	8:00	Holiday Inn, Chevy Chase, MD.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301-496-7760	June 14-16	8:30	Holiday Inn, Bethesda, MD.
Immunological Sciences, Dr. Anita Corman Weinblatt, Rm. 233A, Tel. 301-496-7179.	June 21-23	8:30	Holiday Inn, Chevy Chase, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301-496-7271	June 22-24	8:30	The Georgetown Inn, Washington, DC.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. 5, Tel. 301-496-7107	June 7-9	8:30	Crowne Plaza, Rockville, MD.
Metabolic Pathology, Dr. Marcelina Powers, Rm. 435, Tel. 301-496-5251	June 5-7	8:30	Holiday Inn, Chevy Chase, MD.
Metabolism, Dr. Krish Krishnan, Rm. 339A, Tel. 301-496-7091	June 29-30	8:00	Holiday Inn, Bethesda, MD.
Metallobiochemistry, Dr. Edward Zapolski, Rm. 310, Tel. 301-496-7733	June 15-17	8:30	Omni Georgetown Hotel, Washington, DC.
Microbial Physiology & Genetics-1, Dr. Martin Slater, Rm. 238, Tel. 301-496-7183.	June 21-23	8:30	Sheraton Potomac, Rockville, MD.
Microbial Physiology & Genetics-2, Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130.	June 7-9	8:30	Crowne Plaza, Rockville, MD.
Molecular & Cellular Biophysics, Dr. Patricia Jost, Rm. 236A, Tel. 301-496-7060	June 22-24	8:30	One Washington Circle Hotel, Washington, DC.
Molecular Biology, Dr. Zain Abedin, Rm. 328, Tel. 301-496-7830	June 15-17	8:30	Hyatt Regency, Bethesda, MD.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	June 15-17	8:30	Crowne Plaza, Rockville, MD.
Neurological Sciences-1, Dr. Allen C. Stoolmiller, Rm. 437B, Tel. 301-496-7279	June 14-16	8:00	Marbury House, Georgetown, DC.
Neurological Sciences-2, Dr. Stephen Gobel, Rm. 1A05, Tel. 301-496-8808	June 13-15	8:30	Holiday Inn, Georgetown, DC.
Neurology A, Dr. Catherine Woodbury, Rm. 303A, Tel. 301-496-7506	June 14-17	8:00	Hyatt Regency, Bethesda, MD.
Neurology B-1, Dr. Jo Ann McConnell, Rm. 152, Tel. 301-496-7846	June 13-16	8:00	Hotel Washington, Washington, DC.
Neurology B-2, Dr. Herman Teitelbaum, Rm. 152, Tel. 301-496-7422	June 12-15	8:30	The Savoy Suites Hotel, Washington, DC.
Neurology C, Dr. Kenneth Newrock, Rm. 232, Tel. 301-496-5591	June 21-23	8:30	Omni Georgetown Hotel, Washington, DC.
Nursing Research, Dr. Gertrude McFarland, Rm. A18, Tel. 301-496-0558	June 20-22	8:00	Crowne Plaza, Rockville, MD.
Nutrition, Dr. Ai Lien Wu, Rm. 204, Tel. 301-496-7178	June 19-21	8:30	NIH, Room 7, Bldg. 31C, Bethesda, MD.
Oral Biology & Medicine-1, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	June 12-15	8:30	Holiday Inn, Chevy Chase, MD.
Oral Biology & Medicine-2, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	June 5-8	8:30	Holiday Inn, Chevy Chase, MD.
Orthopedics & Musculoskeletal, Ms. Ileen Stewart, Rm. 350, Tel. 301-496-7581	June 21-23	8:30	Quest Quarters, Bethesda, MD.
Pathobiochemistry, Dr. John Mathis, Rm. A26, Tel. 301-496-7820	June 14-16	8:30	The Savoy Suites Hotel, Washington, DC.
Pathology A, Dr. Houston Baker, Rm. 337, Tel. 301-496-7305	June 20-23	7:00 p.m.	Crowne Plaza, Rockville, MD.
Pathology B, Dr. Martin Padarathsingh, Rm. 352, Tel. 301-496-7244	June 14-16	8:00	Holiday Inn, Georgetown, DC.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	June 20-22	8:30	American Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Rm. 218B, Tel. 301-496-7120	June 26-28	8:30	Holiday Inn, Georgetown, DC.
Physiological Chemistry, Dr. Stanley Burrous, Rm. 339B, Tel. 301-496-7837	June 22-24	8:00	Holiday Inn, Georgetown, DC.
Physiology, Dr. Michael A. Lang, Rm. 209, Tel. 301-496-7878	June 21-23	8:30	Ramada Inn, Bethesda, MD.
Radiation, Dr. John Zimbrick, Rm. 219A, Tel. 301-496-7073	June 13-15	8:30	Holiday Inn, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318	June 7-9	8:30	Holiday Inn, Bethesda, MD.
Reproductive Endocrinology, Dr. Abubakar A. Shaikh, Rm. 325B, Tel. 301-496-8857.	June 12-14	8:30	Key Bridge Marriott, Arlington, VA.
Respiratory & Applied Physiology, Dr. Clyde Watkins, Rm. 218A, Tel. 301-496-7320.	June 12-14	8:30	Holiday Inn, Bethesda, MD.
Safety & Occupational Health, Dr. Richard Rhoden, Rm. 154, Tel. 301-496-6723	June 7-9	8:30	Marbury House, Georgetown, DC.
Sensory Disorders & Language, Dr. Michael Halasz, Rm. 1A03, Tel. 301-496-7550.	June 14-16	8:30	Capitol Holiday Inn, Washington, DC.
Social Sciences & Population, Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906	June 8-10	9:00	Embassy Square Suites, Washington, DC.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Rm. 322, Tel. 301-496-7027	June 13-14	8:00	Holiday Inn, Bethesda, MD.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 319B, Tel. 301-496-7771.	June 21-23	2:00 p.m.	Ramada Inn, Bethesda, MD
Toxicology, Dr. Alfred Marozzi, Rm. 205, Tel. 301-496-7570	June 21-23	8:00	Crowne Plaza, Rockville, MD.
Tropical Medicine & Parasitology, Dr. Jean Hickman, Rm. 334, Tel. 301-496-1190.	June 19-21	8:30	Holiday Inn, Georgetown, DC.
Virology, Dr. Bruce Maurer, Rm. 309, Tel. 301-496-7605	June 15-17	8:00	Crowne Plaza, Rockville, MD.
Visual Sciences A-1, Dr. Anita Suran, Rm. 207, Tel. 301-496-7000	June 15-17	8:30	Holiday Inn, Bethesda, MD.
Visual Sciences A-2, Dr. Jane Hu, R. 439A, Tel. 301-496-7795	June 13-16	8:30	One Washington Circle Hotel, Washington, DC.
Visual Sciences B, Dr. Samuel Rawlings, Rm. 340, Tel. 301-496-7248	June 7-9	8:30	The Savoy Suites Hotel, Washington, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: May 4, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–11521 Filed 5–12–89; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–89–1987]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information:

(1) The title of the information collection proposal;
(2) the office of the agency to collect the information;
(3) the description of the need for the information and its proposed use;
(4) the agency form number, if applicable;
(5) what members of the public will be affected by the proposal;
(6) how frequently information submissions will be required;
(7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;
(8) whether the proposasl is new or an extension, reinstatement, or revision of an information collection requirement; and
(9) the names and telephone numbers of any agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: May 5, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Land Sales Registration, Purchaser's Revocation Rights, Sales Practices and Standards, and Formal Procedures and Rules Practice

Office: Housing

Description of the Need for the Information and its Proposed Use: The Interstate Land Sales Full Disclosure Act requires certain subdivision developers to register with the Department of Housing and Urban Development or to operate under certain exemptions. The addition of the Multiple Site Subdivision Exemption will alleviate certain developers of subdivisions uique in nature from complying with registration requirements.

Form Number: None

Respondents: Individuals or Households and Businesses or Other for-Profit

Frequency of Submission: Annually

Reporting Burden:

	Number of Respondents	x	Frequency of Response	x	Hours per Response	+	Burden Hours
Registration	1,800		1		84.17		151,506
Property Report Receipts	1,800		166.66		.03		9,000
Financial Statements	1,075		1		.28		301
Annual Reports of Activity	1,075		1		.28		301
Exemption Filing (1710.16)	115		1		20		2,300
Exemption Filing (1710.15)	150		1		20		3,000
Annual Reports of Activity (for Multiple Site Exemption)	150		1		.28		42
Lot Information Statement	150		50		.03		225
Recordkeeping Property Receipts Lot Information Statement	1,800		1		.28		504
Receipts	150		1		.28		42

Total Estimated Burden Hours: 167,221

Status: Revision

Contact: Roger G. Henderson, HUD, 755–0502 and John Allison, OMB, (202) 395–6880

Date: May 5, 1989.

[FR Doc. 89–11558 Filed 5–12–89; 8:45 am]

BILLING CODE 4210–01–M

Office of Environment and Energy

[Docket No. I–89–152]

Intent To Issue a Finding of No Significant Impact, Silver Lakes Development, Cities of Pembroke Pines and Miramar, Broward County, FL

The Department of Housing and Urban Development gives notice that it intends to issue a Finding of No Significant Impact (FONSI) based on the preliminary Environmental Assessment (EA) prepared for the project. Comments are solicited before the HUD Atlanta Regional Office will make a final determination whether to proceed without preparing an Environmental Impact Statement (EIS).

Description

Silver Lakes is a proposed mixed use development, located in western Broward County, in the Cities of Pembroke Pines and Miramar, Florida. The site is approximately two miles west of I–75. It is bounded on the north by Sheridan Street, on the east by

Southwest 172nd Avenue, on the west by Southwest 184th Avenue, and extends one half mile south of proposed Miramar Parkway extended. The overall site consists of 2350 acres (approximately four square miles) running one mile in an east-west direction and 4 miles in a north-south direction. About 60 percent (1420 acres) is within City of Pembroke Pines and 40 percent (930 acres) is within the City of Miramar.

The development program for the project includes: 1253 units of single family housing, 2178 units of townhouse/villas, 3067 condominium units, 758 square feet of retail space, 552,700 square feet of office space, 300 hotel rooms, 220 acres of recreational area and land set aside for elementary and middle schools.

The overall project will be developed in three phases—Phase I (1989–1993), Phase II (1994–1998) and Phase III (1999–2003. Only the first two phases, located in Pembroke Pines, are in the HUD Title X application. The Title X program provides mortgage insurance for financing land acquisition, land and site preparation and the installation of infrastructure to allow land to be sold for housing and related uses. Mortgage insurance for the construction of housing units is not part of the Title X program.

Purpose of FONSI Notice

Pursuant to HUD environmental regulations at 24 CFR Part 50, a preliminary environmental assessment has been prepared by HUD's Coral Gables Field Office to determine whether or not an EIS should be required. It is the tentative finding of the EA that there will not be a significant impact on the human environment and that the project is in compliance with the National Environmental Policy Act and HUD environmental regulations at 24 CFR Part 50, including the processes under the related environmental laws and authorities cited at 24 CFR 50.4.

Considerable work, analyses and public review have been completed under the Development of Regional Impact Review process pursuant to Florida statutes and in the Development Order, issued by the Florida Department of Community Affairs, under Florida's Quality Development program. This process required coordinated State-wide reviews and mitigation measures were made a part of the Development Order. Among the impacts that have been indentified, floodplain management and wetlands protection, HUD have addressed through specific procedural processes for those issues as required by Federal Executive Orders 11988 and 11990 respectively. The review and decisionmaking process required by the Executive orders has been completed. Other issues, such as compatibility, access, access, and hazards and nuisances associated with the mining activities on the site and in the vicinity of the project will be ameliorated as this area of Broward County continues to urbanize.

Additional Information and Request for Comments

In accordance with the applicable regulations, a proposed FONSI has been prepared, and a Notice to that effect is hereby published. Pursuant to 40 CFR 1501.4(e) of the Council on Environmental Quality regulations, there will be a thirty (30) day comment period before HUD makes its final determination on the FONSI. Interested individuals, governmental agencies, and private organizations are invited to comment on the proposed FONSI.

Written comments should be submitted within thirty (30) days of the publication of this Notice to: Raymond A. Harris, Regional Administrator, DHUD, Attention: Regional Environmental Officer, 75 Spring Street, SW, Atlanta, GA 30303–3388.

The proposed EA which serves as the basis for the FONSI and supporting documentation are available for review until the close of the comment period at the following locations:

Ivar O. Iverson, Regional Environmental Officer, HUD Regional Office, 75 Spring Street, SW., Atlanta, GA 30303–3388, Telephone: (404) 331–3167 (Commerical), 242–3167 (FTS)

Orlando Lorie', Manager, HUD Coral Gables Office, 1320 South Dixie Highway, Coral Gables, FL 33146–2911, Telephone: (305) 662–4500 (Commercial), 822–4510 (FTS)

The above commercial numbers are not toll free numbers.

Dated: May 8, 1989.

Richard H. Broun,

Director, Office of Environment and Energy.

[FR Doc. 89–11556 Filed 5–12–89; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–09–4212–14; N–50986]

Realty Action, Humboldt County, Nevada

EFFECTIVE DATE: June 14, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Advertisement of public land to be sold at fair market value by noncompetitive land sale procedures. The land is located in Humboldt County, Nevada. The sale of public land will resolve unauthorized use and occupancy.

SUMMARY: Notice is hereby given that pursuant to the Act of October 21, 1976 (43 U.S.C. 1713, Section 203), the Bureau of Land Management will sell at fair market value the following described parcels of public land by noncompetitive land sale procedures:

Mount Diablo Meridian, Nevada

T. 44 N., R. 31 E., Sec. 20:
E½E½SE¼SE¼SE¼,
E½E½NE¼SE¼SE¼,
Containing 5 acres.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 705 E. 4th St., Winnemucca, NV 89445.

FOR FURTHER INFORMATION CONTACT: Hal Green, District Realty Specialist, Bureau of Land Management, Winnemucca District Office, 705 E. 4th St., Winnemucca, NV 89445 (702) 623–3676.

SUPPLEMENTARY INFORMATION: The parcels of public land border private land in northern Humboldt County. Competitive interest could not be determined at the time of sale preparation. In order to eliminate conflicts of interest in land ownership, noncompetitive land sale procedures have been used.

Publication of this notice in the **Federal Register** shall segregate the public lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequent application shall not be considered as filed and shall be returned to the applicant. This segregative effect of the Notice of Realty Action shall terminate upon issuance of the patent or other document of conveyance to such land, upon publication in the **Federal Register** of a termination of the segregation, or 270 days from the date of publication, whichever occurs first. Payment for the property shall be by cash, certified check, postal money order, bank draft, or cashier's check made payable to the Dept. of the Interior-BLM.

The Authorized Officer may withdraw the parcel from sale if it is determined that consummation of the sale would be inconsistent with the provisions of existing law or policy.

The land sale is consistent with Federal regulations contained in Title 43 CFR, specifically:

43 CFR 2710.0–6(3)(iii) Direct sale as provided for in 2711.3–3 of this title may be used when the lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by State or local governments or nonprofit corporations, or where necessary to protect existing equities in the lands or resolve inadvertent unauthorized use or occupancy of said lands.

43 CFR 2711.3–3(a)5 A need to resolve inadvertent unauthorized use or occupancy of the lands.

Reservations to the Federal Government

1. Rights-of-way for ditches and canals constructed under the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits together with the right to prospect for, mine, and remove the same.*

3. Patent, when issued, will be subject to the following right-of-way of record: N–1461, 24.9 kv Harney Electric Cooperative, Inc.

Dated: May 4, 1989.

Robert J. Neary,

Acting District Manager, Winnemucca.

[FR Doc. 89–11570 Filed 5–12–89; 8:45 am]

BILLING CODE 4310–HC–M

Minerals Management Service

Request for Preliminary Information

The U.S. Department of the Interior's Minerals Management Service (MMS) is seeking comments and information from the oil and gas industry regarding specific areas of interest for hydrocarbon exploration in the Washington/Oregon Planning Area of the Outer Continental Shelf (OCS). The oil and gas industry is requested to assist the MMS by delineating areas of interest on maps and providing support documentation.

The MMS is requesting these comments and information at the request of the Pacific Northwest OCS Task Force to assist them in their work. The MMS is delineating areas of relative hydrocarbon potential to further assist the Task Force in developing recommendations for the Secretary of Interior on proposed OCS Sale 132, which is tentatively scheduled for April 1992. The Pacific Northwest OCS Task Force was established in January of 1989 to advise the Secretary on issues related to potential leasing, exploration, and development of oil and gas in the Washington/Oregon Planning Area. It is composed of representatives from the Department of the Interior, the States of Washington and Oregon, and Pacific Northwest Tribal Governments.

This request is being issued well in advance of the beginning of the two-year presale planning process to allow for early identification of potential environmental and multiple-use conflicts by the Pacific Northwest OCS Task Force. The two-year presale planning process for proposed Sale 132 is scheduled to begin in late 1989.

Indications of interest will be considered proprietary and confidential. They will be summarized by the MMS and presented to the Pacific Northwest OCS Task Force in synthesized form to protect company confidentiality. The Task Force will then study alternatives to reduce the size of the area being considered in the leasing process.

Respondents are requested to indicate areas of interest by providing a numerical ranking of seven subareas designated A through G. The subareas should be given priority rankings of from 1 through 7, using 1 as the highest priority and 7 as the lowest. In addition, respondents are requested to designate 300 lease blocks they consider to be of highest priority for leasing plus an additional 300 blocks they consider to be of secondary priority. Areas of interest may be indicated by listing block numbers or by outlining blocks on maps which are available free of charge from the Regional Supervisor, Office of Leasing and Environment, Pacific OCS Region, MMS, 1340 West Sixth Street, Los Angeles, California, 90017, Phone (213) 894–7107. The requested information should be provided to the MMS no later than June 16, 1989.

Oil company representatives or others who have information as described above are encouraged to contact J. Lisle Reed, Regional Director, Pacific OCS Region, MMS, at (213) 894–2048 to schedule individual meetings at their convenience between May 15, 1989, and June 16, 1989. For additional information, interested parties should contact John B. Smith of the Pacific OCS Region at (213) 894–4154.

Date: May 8, 1989.

J. Lisle Reed,

Regional Director, Pacific OCS Region, Minerals Management Service.

[FR Doc. 89–11541 Filed 5–12–89; 8:45 am]

BILLING CODE 4310–MR–M

*The mineral deposits or interests having no known mineral value will be conveyed simultaneously with the surface estate at the time of sale. The purchaser will be required to remit $50.00, nonrefundable fee. Failure to do so will result in the cancellation of the sale.

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub-No. 66)]

The Georgia Northern Railway Co.; Abandonment Between Moultrie and Pavo, in Colquitt, Thomas and Brooks Counties, GA; Notice of Findings

The Commission has issued a certificate authorizing The Georgia Northern Railway Company to abandon its 15-mile line of railroad between Moultrie (milepost 28.0–B) and Pavo (milepost 13.0–B), in Colquitt, Thomas and Brooks Counties, GA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from the publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Noreta R. McGee,

Secretary.

[FR Doc. 89–11720 Filed 5–12–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31458]

James River Corp. of Virginia, Inc., and James River Paper Co., Inc.; Merger Exemption, James River U.S. Holdings, Inc., and James River-Norwalk, Inc.

James River Corporation of Virginia, Inc. (JRC), a noncarrier, and its wholly-owned subsidiaries discussed below have filed a notice of exemption for the merger of James River U.S. Holdings, Inc. and (JR U.S.) James River-Norwalk, Inc. (JR-Norwalk) into James River Paper Company, Inc. (JR Paper). Prior to the restructuring, Berlin Mills Railway, Inc. (BMR), a class III rail carrier and Riverside Transportation, Inc. (RTI), a motor contract carrier, were subsidiaries of JR U.S. Meridian & Bigbee Railroad Company (M&B), a class III rail carrier, was a subsidiary of JR-Norwalk. The purpose of the merger, which became

effective on April 29, 1989, is to streamline corporate operations through the consolidation of subsidiary companies. The transaction will not result in any significant change in the management or operations of the subsidiary carriers, which will remain separate entities.

This is a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The proposed transaction is intended to effect operating efficiencies.

To ensure that all employees who may be affected by the transaction are given the minimum protection afforded under 49 U.S.C. 10505(g)(2) and 49 U.S.C. 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Jacquelyn E. Stone, McGuire, Woods, Battle & Boothe, One James Center, Richmond, VA 23219.

Decided: May 4, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–11354 Filed 5–12–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31392]

South Carolina Central Railroad Co., Inc., Lease Exemption, Central of Georgia Railroad Co. and The South Western Rail Road Co., Line Between Smithville, GA and White Oak, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the lease by the South Carolina Central Railroad Company, Inc. from Central of Georgia Railroad Company and The South Western Rail Road Company (subsidiaries of the Southern Railway Company, a wholly owned subsidiary of Norfolk Southern Corporation) of 79 miles of railroad line and rail-related property between Smithville, GA and White Oak, AL, subject to standard employee protective conditions. The Commission also exempts under 49 U.S.C. 10505 from the approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of operations over the line by the current operator, Central of Georgia Railroad Company, subject to standard employee protective conditions.

DATES: This exemption will be effective on May 22, 1989. Petitions for reconsideration must be filed by June 5, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31392 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representatives: Central of Georgia Railroad Company and South Western Rail Road Company: Richard W. Parker, Three Commercial Place, Norfolk, VA 23510. South Carolina Central Railroad Company: Slover & Loftus, Kelvin J. Dowd, 1224 17th St. NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245, [TDD for hearing impaired (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: May 4, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–11550 Filed 5–12–89; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 88–5]

Thomas H. McCarthy, D.O. Revocation of Registration

On December 28, 1987, the Deputy Assistant Administrator of the Drug Enforcement Administration (DEA), Office of Diversion Control, issued to Thomas H. McCarthy, D.O. (Respondent), of Dayton, Ohio, an Order to Show Cause and Immediate Suspension of Registration proposing to revoke Respondent's DEA Certificate of Registration AM2801492. The Immediate Suspension of Registration was stayed by a United States District Court allowing Respondent to retain his registration during the pendency of this case. The Order to Show Cause alleged that Respondent's registration was inconsistent with the public interest due to numerous violations of State and Federal laws which shall be enumerated more fully herein.

Respondent timely filed a request for a hearing on the issues raised by the Order to Show Cause and following prehearing procedures, a hearing was held in Dayton, Ohio, on June 14 through 17, 1988. Administrative Law Judge Mary Ellen Bittner presided. Thereafter, counsel for both sides filed proposed findings of fact and conclusions of law for consideration. On December 20, 1988, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge. Subsequently, the Administrative Law Judge transmitted the entire record of these proceedings to the Administrator for his consideration. The Administrator has reviewed the record and, pursuant to the provisions of 21 CFR 1316.67, issues his final order, based upon such findings of fact and conclusions of law as hereinafter set forth.

Sections 303(f) and 304(a)(4) of the Controlled Substances Act (21 U.S.C. 823(f) and 824(a)(4)) provide for the revocation of a registration which is found to be inconsistent with the public interest. The relevant factors to be considered in any such revocation are outlined in 21 U.S.C. 823(f). They are: (1) The recommendation of the appropriate State licensing board or professional disciplinary authority. (2) The applicant's experience in dispensing, or conducting research with respect to controlled substances. (3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances. (4) Compliance with applicable State, Federal, or local laws relating to controlled substances. (5) Such other conduct which may threaten the public health and safety.

The Administrative Law Judge found that on December 6, 1977, the Ohio State Medical board found Respondent guilty of numerous counts of issuing Schedule II controlled substance prescriptions which departed from "minimal standards of care" as defined by the Ohio statutes. The Board suspended Respondent from the practice of medicine for thirty days and placed him on probation for one year following the suspension. An Ohio state court upheld

the Board on one count and modified the Board's order and placed Respondent on probation for three months with no suspension of his license to practice medicine.

On March 9, 1988, the Ohio Medical Board found that Respondent had practiced medicine without a license between January 1985 and June 1986. It further found that between January 1 and September 30, 1985, Respondent had purchased 878,500 dosage units of controlled substances which constituted "a failure to use reasonable care discrimination in the administration of drugs." The Board revoked Respondent's license to practice medicine. Respondent obtained a stay pending an appeal.

Former patients established that for several years Respondent had been issuing controlled substance prescriptions without examining or even seeing these patients. Respondent's wife frequently signed the prescriptions. On many occasions, Respondent was not in the office when patients were issued signed prescriptions for controlled substances. Prescriptions for controlled substances were also obtained for friends or relatives who never saw Respondent. Prescriptions for these former patients were issued monthly, and regularly included Tuinal, Valium, Soma compound with codeine, phendimetrazine and phentermine, all controlled substances. Respondent continued to regularly issue these prescriptions even during the pregnancy of one of the patients. These prescriptions were filled and sold on the street. Respondent's prescription practices were designed to insure quick and easy access to controlled substances. Other than perfunctory weight and blood pressure checks, no attempt was made to provide medical care to these patients. It was simply a drug supply operation and the Administrator finds that the drugs thus prescribed and dispensed were not issued for a legitimate medical purpose.

The names of persons receiving prescriptions for controlled substances by Respondent who lived in the same geographical area were made known to local Ohio law enforcement personnel. Of 50 such persons, 32 were suspected traffickers and 11 had previously been arrested for controlled substance violations. Another police officer in a nearby county purchased Tuinal from a person who received the prescription from Respondent.

Respondent issued controlled substance prescriptions to another undercover police office who informed Respondent that he had recently been released from a drug abuse clinic. Without any physical examination and without taking a medical history, Respondent issued a prescription for SBP, a Schedule III controlled substance containing secobarbital, butabarbital and phenobarbital. On a repeat visit to Respondent's office, this officer received another prescription issued by Respondent's wife which doubled the quantity of the first prescription. Again there were no examinations of any kind or even dialogue between doctor and patient. Respondent was not in the office. The Administrator finds that these prescriptions were not issued for a legitimate medical purpose.

In July 1983, the DEA seized approximately 14,588 controlled substance prescriptions from a local pharmacy. Approximately 11,015 of those prescriptions had been written by Respondent. Respondent wrote 4,357 prescriptions for Schedule II drugs between January 1, 1982 and July 26, 1983. He wrote the remaining 6,658 Schedule III–V prescriptions between January 1, 1983 and July 26, 1983. The DEA's review of these prescriptions revealed that Respondent issued 108 controlled substance prescriptions on a day he was not at the office. Approximately 20 of those were for Schedule II controlled substances which bore Respondent's signature. During a four-day period when Respondent was ill and not in the office, he (or his wife), issued a total of 226 prescriptions for controlled substances.

During the months of May and June of 1983, the DEA set up surveillance at Respondent's office. On May 23, 1983, Respondent issued identical prescriptions for Tuinal, SBP, Talwin, and Adipex to two patients and their wives. Their wives did not accompany them to Respondent's office. A total of 1,320 dosage units of controlled substances were prescribed for these four individuals in one day. This pattern was repeated numerous times. Patients and their spouses or other relatives obtained identical prescriptions for multiple controlled substances on the same day. It is obvious that these prescriptions were not issued for a legitimate medical purpose and the Administrator so finds.

DEA investigators reviewed invoices of sales of controlled substances to Respondent and ascertained that in 1983, Respondent purchased 40,000 dosage units of phendimetrazine, 24,000 dosage units of Statobex, and 160,000 dosage units of SPRX. In 1984, Respondent purchased 80,000 dosage units of SPRX, 80,000 dosage units of phendimetrazine, and 7,000 dosage units of phentermine. In 1985, Respondent purchased 298,000 dosage units of phendimetrazine and 90,000 dosage units of phentermine. In 1986, Respondent purchased 322,000 dosage units of phendimetrazone, 132,000 dosage units of phentermine, and 190,000 units of Adipex. In 1987, Respondent purchased 205,600 dosage units of Adipex, 343,000 dosage units of phendimetrazine, and 5,000 dosage units of phentermine. The Administrator agrees with the Ohio hearing officer who stated that "at best, Dr. McCarthy's purchases as a whole must be termed as so highly imprudent as to indicate severe deficiencies in his ability to make reasonable discriminating decisions in his administration of drugs." DEA records indicate that no single pharmacy in the State of Ohio purchased controlled substances at those levels.

The Ohio Medical Board seized over 9,000 prescriptions for controlled substances, primarily Schedule II, issued by Respondent between 1980 and 1982. These prescrptions were issued to over 800 patients. Forty such patients were selected for profiling. Through expert testimony, it was established that in almost every case, Respondent had excessively prescribed and at such levels as to addict some patients. The prescriptions were not medically justified and for many, Respondent kept no medical histories at all. Prescriptions given to these patients were contradictory and/or were unpredictable and dangerous. Prescriptions for the Schedule II narcotic Percodan were issued in such amounts that no medical literature could be found which even mentioned prescribing in such quantities. The Administrator finds that these prescriptions were not issued for a legitimate medical purpose.

During the first week of December 1981, Respondent underwent an operation and was out of the office. During that time, Respondent (or his wife), issued prescriptions for over 2,500 dosage units of Schedule II controlled substances. From January 1980 through February 1982, Respondent prescribed an average of 1,000 dosage units of controlled substances per day every day that his office was open. Between 1980 and 1982, Respondent also prescribed 2.9 percent of the total amount of methaqualone produced in the United States during that same time period, or 1.3 percent of the total methaqualone available for medical purposes in the United States during that same period.

The Administrative Law Judge found that over a period of years, Respondent prescribed and dispensed enormous quantities of controlled substances in inappropriate combinations, too frequently, in excessive amounts, and

often to patients he did not even see. The Administrator adopts the findings of the Administrative Law Judge and further finds that Respondent's prescribing practices show a total disregard for the law, accepted medical practice and total incompetence in dispensing and prescribing controlled substances. The danger to the public due to Respondent's purposeful illegal dispensing and prescribing cannot be overemphasized.

Respondent contends that much of the evidence against him occurred prior to the 1984 amendments to the Controlled Substances Act of 1970 establishing the public interest grounds for revocation and therefore may not be considered. There is no merit to this argument. The Administrator has considered similar arguments in *James Beale, M.D.*, Docket No. 87-19, 53 FR 15149 (April 27, 1988), and *Richard T. Robinson, M.D.*, Docket No. 87-28, 53 FR 15154 (April 27, 1988). An applicant's "experience in dispensing" (which includes prescribing and administering), made applicable to registrants by 21 U.S.C. 824(a)(4), is a statutory factor which "shall" be considered as set out in 21 U.S.C. 823(f)(2). That such evidence may be far removed in time to the present day only affects the weight to be given such evidence.

Therefore, upon consideration of the record in this matter, it is the decision of the Administrator to revoke the certificate of registration issued to Thomas H. McCarthy, D.O. and deny any pending applications for renewal. The continued registration of Dr. McCarthy would be contrary to the public interest. Accordingly, having concluded that there are lawful bases for the revocation of Respondent's registration, and for the denial of any pending applications for renewal, 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 DEA Certificate of Registration AM2801492, previously issued to Thomas H. McCarthy, D.O., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of that registration be, and they hereby are, denied.

This order is effective May 15, 1989.

John C. Lawn,

Administrator.

Dated: May 8, 1989.

[FR Doc. 89-11572 Filed 5-12-89; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Preservation; Meeting

Notice is hereby given that the National Archives Advisory Committee on Preservation, Ad Hoc Charters Subcommittee will meet on June 6, 1989. The meeting will be held from 10 a.m. to 3 p.m. on Tuesday, June 6, 1989, in Room 105 of the National Archives Building, 7th and Pennsylvania Avenue, NW., Washington, DC 20408.

The agenda for the meeting will be:

1. Charters Monitoring System.
2. Glass deflection studies.
3. Helium measurements.
4. Contingency planning.

This meeting is open to the public. For further information, contact Alan Calmes on (202) 523-1546.

Notice of the meeting is made in accordance with the Federal Advisory Committee Act.

Dated: May 9, 1989.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 89-11522 Filed 5-12-89; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers Fellowships Prescreening Section) to the National Council on the Arts will be held on May 31-June 1, 1989, from 9:00 a.m.—8:00 p.m. in Room M07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

May 9, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-11580 Filed 5-12-89; 8:45 am]

BILLING CODE 7537-01-M

Dance Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers Fellowships Section) to the National Council on the Arts will be held on June 3-4, 1989, from 9:00 a.m.-8:30 p.m.; June 5, 1989, from 9:00 a.m.-9:00 p.m.; June 6, 1989, from 9:00 a.m.-8:30 p.m.; and June 7, 1989, from 9:00 a.m.-6:30 p.m. in Room M07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 7, 1989 from 3:30 p.m.-6:30 p.m. The topics for discussion will be policy issues.

The remaining portions of this meeting on June 3-4, 1989, from 9:00 a.m.-8:30 p.m.; on June 5, 1989, from 9:00 a.m.-9:00 p.m.; on June 6, 1989, from 9:00 a.m.-8:30 p.m.; and on June 7, 1989, from 9:00 a.m.-3:30 p.m. are for the Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

May 9, 1989.

[FR Doc. 89–11581 Filed 5–12–89; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–264]

Renewal of Facility Operating License No. R–108; Dow Chemical Co.

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. R–108 for the Dow Chemical Company (the licensee), which renews the license at an increased power level for operation of the TRIGA Mark I research reactor located on the licensee's site in Midland, Michigan.

The facility is a non-power reactor that has been operating at a power level not in excess of 100 kilowatts (thermal). The renewed Facility Operating License No. R–108 authorizes an increased power not in excess of 300 kilowatts (thermal) and will expire twenty years from its date of issuance.

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I. Those findings are set forth in the license amendment. Opportunity for hearing was afforded in the notice of the proposed issuance of this renewal in the **Federal Register** on December 15, 1986 at 51 FR 44956. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

Continued operation of the reactor at the increased power level will not require alternation of buildings or structures, will not lead to significant changes in effluents released from the facility to the environment, will not increase the probability or consequences of accidents, and will not involve any unresolved issues concerning alternative uses of available resources. Based on the foregoing and on the Environmental Assessment, the Commission concludes that renewal of the license will not result in any significant environmental impacts.

The Commission has prepared a Safety Evaluation Report (NUREG–1312) for the renewal of Facility Operating License No. R–108 and has, based on that report, concluded that the facility can continue to be operated by the licensee without endangering the health and safety of the public.

The Commission also prepared an Environmental Assessment which was published in the **Federal Register** on May 1, 1989 (54 FR 18614) for the renewal of Facility Operating License No. R–108 and has concluded that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see: (1) The application for amendment dated November 14, 1986, as supplemented on June 2, 1987, August 14, 1987, April 29, 1988, and January 10, 1989; (2) Amendment No. 5 to Facility Operating License No. R–108; (3) the related Safety Evaluation Report (NUREG–1312) and (4) the Environmental Assessment dated April 20, 1989. These items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Copies of NUREG–1312 may be purchased by calling (202) 275–2060 or (202) 275–2171 or write the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7982.

Dated at Rockville, Maryland, this 8th day of May 1989.

Charles L. Miller,

Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–11576 Filed 5–12–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Denial of Portion of Application for Amendment to Facility Operating License Florida Power Corp. et al.

The United States Nuclear Regulatory Commission (the Commission) has denied a portion of a request by Florida Power Corporation (the licensee) for an amendment to Facility Operating License No. DPR–72, issued to the licensee for operation of the Crystal River Unit 3 Nuclear Generating Plant (the facility), located in Citrus County, Florida.

The proposed amendment requested changes to section 6, Administrative Controls, and requested modification of the audit frequencies for the Security, Emergency and Fire Protection plans to be consistent with 10 CFR 73.40(d). Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on February 24, 1984 (49 FR 7035).

The licensee's application for amendment was dated April 14, 1983, as modified December 13, 1983, July 25, 1984, January 24, 1986, October 16, 1986 and August 18, 1987.

One of the requested changes to section 6, Administrative Controls, involved the addition of a footnote to Figure 6.2–1, "Corporate Organization," and Figure 6.2–2, "Facility Organization," which would have stated that the organizations may be changed "without prior License Amendment provided that a revision to Figure 6.2–1 (and Figure 6.2–2) is included with the next License Amendment request." The staff determined that the proposed footnote was not acceptable, even though the staff does not disagree with its intent. The staff recognizes the addition of the footnote as an attempt by the licensee to address the problem of burdensome administrative effort and delays in implementation of desired organizational changes. However, the proposed footnote would permit unilateral licensee changes to the Technical Specifications (TS) without prior NRC review and approval. This would violate the regulations. A more appropriate solution is presented in NRC Generic Letter 88–06, which permits removal of the organization charts from the TS with appropriate changes to the administrative control requirements of the TS.

By letter dated April 27, 1989, the licensee committed to proceed expeditiously to request an amendment removing the organization charts from the TS in accordance with Generic Letter 88–06.

The licensee was notified of the Commission's denial of this request by letter dated May 5, 1989.

By June 14, 1989, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC, by the above date.

A copy of this petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to A.H. Stephens, General Counsel,

Florida Power Corporation, MAC–A5D, P.O. Box 14042, St. Petersburg, Florida 33733.

For further details with respect to this action, see (1) the application for amendment dated April 14, 1983, as modified December 13, 1983, July 25, 1984, January 24, 1986, October 16, 1986 and August 18, 1987, and (2) the Commission's letter to Florida Power Corporation dated May 5, 1989, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Director, Division of Reactor Projects.

Dated at Rockville, Maryland, this 5th day of May 1989.

Harley Silver,

Project Manager, Project Directorate II–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–11577 Filed 5–12–89; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF STATE

Advisory Committee on International Law; Partially Closed Meeting

A meeting of the Advisory Committee on International Law will take place at 10:00 a.m. on Friday, June 2, 1989, in Room 1207 of the Department of State, 2201 C Street, NW., Washington, DC. The morning session will not be open to the public; the afternoon session (2:00 p.m. to 3:00 p.m.) will be open to the public up to the capacity of the meeting room.

The subject meeting will focus on policy and legal issues relating to the International Court of Justice. As the morning session will include examination and discussion of material classified in accordance with Executive Order 12356 the disclosure of which could adversely affect the foreign policy interests of the United States, it has been closed pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9)(B).

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring to attend the afternoon session should, prior to June 1, notify the Office of the Assistant Legal Adviser for United Nations Affairs (telephone (202) 647–6771) of their name, affiliation, address and telephone number in order to arrange admittance.

Bruce C. Rashkow,

Executive Director.

May 3, 1989.

[FR Doc. 89–11546 Filed 5–12–89; 8:45 a.m.]

BILLING CODE 4710–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP), and Review and Solicitation of Public Comment: United States International Trade Commission Public Report Assessing Economic Impact of Proposed Modifications of the List of Articles Eligible for Duty-Free Treatment Under the U.S. Generalized System of Preferences (GSP): Timex Petition

The GSP Subcommittee of the Trade Policy Staff Committee hereby notifies interested parties of the opportunity to comment on the public version of the United States International Trade Commission (USITC) report assessing the domestic economic impact of the proposed addition of watches to the list of eligible items of the Generalized System of Preferences, as requested in the petition submitted by Timex. The report is available from the USITC by calling Linda Linkins in the General Manufacturing Division at the USITC at (202) 252–1499 (Room #413e). The USITC is located at 500 E Street, SW in Washington, DC. The report is also available for review by appointment at the GSP Information Center, Office of the USTR in Washington, DC; the GSP Information Center can be contacted at (202) 395–6971.

All comments concerning the USITC report should be submitted in 20 copies, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, 600 17th Street, NW., Room 517, Washington, DC 20506. Comments must be received no later than 5:00 p.m. on Wednesday, May 24, 1989. Information submitted will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2007.7. If the document contains business confidential information, 20 copies of a nonconfidential version of the submission along with 12 copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "non-confidential").

Questions concerning the comment period or any other aspect of the GSP program may be directed to the GSP Information Center at (202) 395–6971.

Federal Register notices regarding these submissions have been published on two occasions. The document numbers and the dates of these notices are as follows: FR Doc. 88–23939 (Oct. 18) and FR Doc. 88–23176 (Oct. 7).

Sandra J. Kristoff,

Chairwoman, Trade Policy Staff Committee.

[FR Doc. 89–11557 Filed 5–12–89; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended May 5, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 46252.

Date Filed: May 5, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 2, 1989.

Description: Application of Pacific Interstate Airlines, Inc. d/b/a Carnival Air pursuant to Section 401(d)(1) of the Act and Subpart Q of the Rules of Practice amends its original application for the issuance of certificate of public convenience and necessity to authorize it to engage in scheduled foreign air transportation by deleting existing paragraph 4 reading as follows:

4. Applicant requests the issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled foreign air transportation of persons, property and mail between a point

or points in the United States and a point or points in the Bahama Islands.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-11530 Filed 5-12-89; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

[Docket 46029]

Application of Heritage Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 89-5-23).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Heritage Airlines, Inc., fit and awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation.

DATE: Persons wishing to file objections should do so no later than May 19, 1989.

ADDRESSES: Objections and answers to objections should be filed in Docket 46029 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Delores King, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2343.

Dated: May 8, 1989.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-11531 Filed 5-12-89; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Intent to Prepare an Environmental Impact Statement and To Hold an Environmental Scoping Meeting for Detroit City Airport, Detroit, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice to hold a public scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an environmental document will be developed concurrently with the preparation of a Master Plan for Detroit City Airport. The purpose of this Plan is to determine the facilities that will be required to meet future (a twenty year time period) demand for airport operations and develop methods for providing noise compatibility with surrounding land uses. Forecasts indicate a need for a primary runway length of 8,600 feet in this densely developed urban location. To ensure that all significant issues related to the proposed action are identified, a public scoping meeting will be held.

FOR FURTHER INFORMATION CONTACT: Ernest Gubry, Airports Engineer, Federal Aviation Administration, Detroit Airports District Office, 8820 Beck Road, Willow Run Airport—East Side, Belleville, Michigan 48111, (313) 484-3100.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the Michigan Aeronautics Commission, Michigan Department of Transportation and city of Detroit will prepare an Environmental Impact Statement (EIS) concurrently with the preparation of a Master Plan for Detroit City Airport. The purpose of this Master Plan is to determine the facilities that will be required to meet future (a twenty year time period) demand for airport operations and develop methods for providing noise compatibility with surrounding land uses. Forecasts indicate a need for a primary runway length of 8,600 feet.

Due to the densely developed urban location of the airport and the potential for significant environmental impacts associated with any proposed expansion, a decision has been made to prepare an Environmental Impact Statement (EIS) concurrently with the preparation of the Master Plan, so that decision makers will have an early and complete understanding of the consequences of any action proposed by the Plan. The Joint Lead Agencies for the EIS will be the Federal Aviation Administration and the Michigan Department of Transportation.

Two cemeteries are located immediately north and south of the airport's existing primary runway (15/33). It is the desire of the people of Detroit, expressed during past airport improvement programs, to not disturb these cemeteries. Therefore, an extension of Runway 15/33 beyond its present length of 5,211 feet is not being considered as one of the EIS alternatives. Instead, a new runway is envisioned. New locations for a 8,600-foot primary runway that will be considered are: parallel to and west of existing Runway 15/33 (a northwest-southeast alignment), a north-south alignment, and a northeast-southwest alignment. The "no action" alternative also will be investigated by the EIS. Each of the three alternative runways alignments necessitates a different layout of airport facilities, with different environmental impacts. Potentially significant issues, in addition to those generated by the construction and operation of airport facilities, are to include those associated with the relocation of residents, businesses, railroads, road, and utilities from alternative airport expansion zones.

Comments and suggestions are invited from Federal, State and local agencies, and other interested parties to ensure that the full range of issues related to these proposed projects are addressed and all significant issues identified. Copies of materials to be evaluated can be obtained by contacting the FAA informational contact listed above. Comments and suggestions may be mailed to the same address.

Public Scoping Meeting

To facilitate receipt of comments, two public scoping meetings will be held on Wednesday, June 14, 1989. They will be held in the Auditorium on thirteenth floor of the City-County Building, 2 Woodward Avenue, Detroit, Michigan. One meeting will be held at 10:00 a.m. for Federal and state agencies, and another at 2:30 p.m. for local agencies and other interested parties.

Issued in Des Plaines, Illinois, on May 4, 1989.

Larry H. Ladendorf,

Acting Manager, Airports Division, FAA, Great Lakes Region.

[FR Doc. 89-11544 Filed 5-12-89; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Availability of the Federal Radionavigation Plan

AGENCY: Department of Transportation (DOT), Research and Special Programs Administration (RSPA), DOT.

ACTION: Availability for comment.

SUMMARY: The 1988 edition of the Federal Radionavigation Plan has been published and is available for comment.

DATE: Comments must be received by October 31, 1989.

ADDRESS: Comments for consideration by the DOT Navigation Working Group should be forwarded to Dockets Branch, Office of Hazardous Materials Transportation, U.S. Department of

Transportation. Comments should be submitted in two copies. The Dockets Branch is located in Room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, Telephone (202) 366–5046.

FOR FURTHER INFORMATION CONTACT: David Scull, Office of Research and Technology, Research and Special Programs Administration, Department of Transportation, 400 7th Street, SW., Washington, DC, 20590 (202) 366–4355.

SUPPLEMENTARY INFORMATION: A copy of the Federal Radionavigation Plan is available for inspection in the Dockets Branch.

The 1988 Federal Radionavigation Plan is available from:

1. National Technical Information Service (NTIS) 5285 Port Royal Road, Springfield, Virginia 22161. Stock Number: PB89163075, Paper Copy: $21.95, Microfiche: $6.95.

2. Superintendent of Documents, U.S. Government Printing Office. Washington, DC 20402. S/N 008–047–00393–5, Paper Copy: $12.00.

Issued in Washington, DC, on May 5, 1989.

Travis P. Dungan,

Administrator, RSPA.

[FR Doc. 89–11534 Filed 5–12–89; 8:45 am]

BILLING CODE 4910–60–M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before May 30, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
3004–X	National Welders Supply Co., Inc., Charlotte, NC.	3004
3549–X	[1] U.S. Department of Energy, Washington, DC.	3549
4453–X	Maynes Explosives Company, Lee's Summit, MO.	4453
4453–X	Mining Services International (MSI), Salt Lake City, UT.	4453
4453–X	Cherokee Products, Inc., Jefferson City, TN.	4453
5876–X	FMC Corporation/ Agricultural Chemical Group, Philadelphia, PA.	5876
5948–X	U.S. Department of Energy, Washington, DC.	5948
5967–X	Rocket Research Company, Redmond, VA.	5967
6016–X	Airco Acety Arc, Inc., Paducah, KY.	6016
6538–X	Intourgas, Plein Air S.r.l., Milan, Italy.	6538
6670–X	[2] E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	6670
6816–X	U.S. Department of the Army, Falls Church, VA.	6816
6816–X	McDonnel Douglas Astronautics Company, Saint Louis, MO.	6816
7072–X	[3] Container Corporation of America, Wilmington, DE.	7072
7269–X	U.S. Department of Energy, Washington, DC.	7269
7607–X	Ecology and Environment, Inc., Lancaster, NY.	7607
7607–X	Hanson Engineers, Incorporation, Springfield, IL.	7607
7716–X	Kinepak, Inc., Dallas, TX.	7716
7753–X	Monsanto Chemical Company, Saint Louis, MO.	7753
7835–X	Liquid Air Corporation, Walnut Creek, CA.	7835
7835–X	National Welders Supply Co., Inc., Charlotte, NC.	7835
7887–X	Vulcan Systems, Inc., Colorado Springs, Co.	7887
7954–X	[4] Air Products and Chemicals, Inc., Allentown, PA.	7954
8006–X	Bland & Glennon, Inc., New York, NY.	8006
8065–X	U.S. Department of Energy, Washington, DC.	8065
8167–X	Manostat Corporation, New York, NY.	8167
8239–X	Imaging and Sensing Technology Corporation, Horseheads, NY.	8239
8273–X	[5] TRW Vehicle Safety Systems, Inc., Romeo, MI.	8273
8453–X	Energy Ventures Corp. dba Columbus Powder Company, Columbus, IN.	8453
8465–X	Chase Packaging Corp., Greenwich, CT.	8465
8518–X	Barnett Trucking, Inc., Fillmore, CA.	8518
8549–X	United Pumping Service, Inc., City of Industry, CA.	8549
8673–X	MarkAir, Inc., Anchorage, AK.	8673
8716–X	Foote Mineral Company, Malvern, PA.	8716
8723–X	[6] IRECO, Incorporated, Salt Lake City, UT.	8723
8735–X	Letica Corporation, Rochester, MI.	8735
8742–X	Cusco Fabricators Limited, Richmond Hill, Ontario, CN.	8742
8901–X	[7] Soweco, Inc., Amarillo, TX.	8901
8988–X	Dresser Industries, Inc./ Guiberson Division, Houston, TX.	8988
9004–X	Metric Corporation, Tulsa, OK.	9004
9015–X	Monsanto Chemical Company, Saint Louis, MO.	9015
9027–X	McGean-Rohco, Inc., Cleveland, OH.	9027
9059–X	Air Products and Chemicals, Inc., Allentown, PA.	9059
9059–X	Boeing Aerospace, Seattle, WA.	9059
9078–X	Monsanto Chemical Company, St. Louis, MO.	9078
9079–X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	9079

Application No.	Applicant	Renewal of exemption
9101-X	GE Astro Space Division, Princeton, NJ.	9101
9108-X	Ensign-Bickford Company, Simsbury, CT.	9108
9192-X	Air Products and Chemicals, Inc., Allentown, PA.	9192
9222-X	Willms Trucking Company, Inc. (WTC), Charleston Heights, SC.	9222
9222-X	Caldwell Systems, Inc. (CSI), Lenoir, NC.	9222
9330-X	MarkAir, Inc., Anchorage, AK.	9330
9425-X	American Chemical & Refining Company, Inc., Waterbury, CT.	9425
9441-X	Amtrol, Incorporated, West Warwick, RI.	9441
9480-X	Airco Special Gases, Riverton, NJ.	9480
9481-X	Atlas Powder Company, Dallas, TX.	9481
9485-X	Chem-Tech, Limited, Des Moines, IA.	9485
9487-X	Chem-Tech, Limited, Des Moines, IA.	9487
9519-X	[8] Transchem I Corporation, Kearny, NJ.	9519
9678-X	Rossborough Manufacturing Company, Avon Lake, OH.	9678
9681-X	ICI Americas Inc./ Pyrotechnic Specialties, Bryon, GA.	9681
9688-X	Whittaker-Yardney Power Systems, Waltham, MA.	9688
9708-X	U.S. Department of Energy, Washington, DC.	9708
9714-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	9714
9729-X	Allied-Signal Inc., Morristown, NJ.	9729
9741-X	Moura Batteries Co., Inc., Edison, NJ.	9741
9744-X	Akzo Chemicals, Inc., Chicago, IL.	9744
9749-X	Union Carbide Corporation, Danbury, CT.	9749
9750-X	IRECO, Incorporated, Salt Lake City, UT.	9750
9752-X	Ethyl Corporation, Baton Rouge, LA.	9752
9766-X	Hercules, Incorporated, Wilmington, DE.	9766
9768-X	[9] Defense Technology and Procurement Agency, Berne, Switzerland.	9768
9773-X	SST Industries, Inc., Cincinnati, OH.	9773
9801-X	Phelps Dodge Corporation, Phoenix, AZ.	9801
9808-X	Apache Powder Company, Benson, AZ.	9808
9878-X	Tennessee Eastman Company, Kingsport, TN.	9878
10090-X	[10] Clawson Tank Company, Clarkson, MI.	10090
10159-X	[11] Novamax Technologies, (U.S.), Inc., Atlanta, GA.	10159

[1] To renew and to authorize use of an optional polyethylene bottle as an additional packaging configuration for shipment of certain Class A explosives.
[2] To authorize the addition of Hexafluoroethane (R116) classed as a non-flammable gas as an additional commodity.
[3] To renew and to authorize an increase in drum capacity not to exceed 55 gallon capacity for shipment of certain corrosive and poison B liquids.
[4] To renew and authorize shipments of mixtures containing up to 21.5% fluorine (balance nitrogen, argon, helium, xenon, neon or krypton) in manifolded DOT Specification cylinders.
[5] To autohrize the increase of shipments up to 1000 pounds per package (skid) and package up to ninety (90) modules in each container.
[6] To authorize a combustible liquid as an additional commodity contain in bulk containers for shipment by water.
[7] To authorize a rectangular nalgene bottle with handles as an additional container.
[8] Request modifications to the support ribs, sump area, fork lift entries, closure area and fittings on polyethylene portable tanks for shipment of certain corrosive or flammable liquids and an oxidizer.
[9] To authorize additional Class A explosives for shipment by cargo aircraft.
[10] To authorize a larger polyethylene portable tank of up to 550 gallon capacity for shipment of certain corrosive materials, flammable liquids and an oxidizer.
[11] To renew exemption originally issued on an emergency basis for shipment of certain corrosive and oxidizer materials in DOT Specifications 17E and 34 drums equipped with ¾ inch vent plugs.

Application No.	Applicant	Parties to exemption
5792-P	Sun Refining and Marketing Company, Philadelphia, PA.	5792
6657-P	TRI-GAS, Inc., Irving, TX.	6657
7052-P	Fairchild Communications & Electronics Company, Germantown, MD.	7052
7943-P	Action Chemical Company, Phoenix, AZ.	7943
8214-P	Mazda Motor of America, Inc., Irvine, CA.	8214
8236-P	TRW Inc., Romeo, MI.....	8236
8445-P	Chemical Waste Management, Inc., Oak Brook, IL.	8445
8445-P	EnviroCure, Pittsburgh, PA.	8445
8518-P	Cummings Vacuum Service Inc., Shafter, CA.	8518
8554-P	Energy Ventures Corp. d/b/a Columbus Powder Co., Columbus, IN.	8554
8723-P	Dyna-Blast, Nortonville, KY.	8723
8723-P	Econex Incorporated, Wheaton, IL.	8723
9110-P	Atochem S.A., 13011 Marseille, France.	9110
9198-P	USDA—U.S. Department of Agriculture/Forest Sev., Washington, DC.	9198
9381-P	Western Zinc Corporation, Rancho Dominguez, CA.	9381
9498-P	Cominco Fertilizers/A Division of Cominco Ltd., Calgary, Alberta, CN.	9498
9599-P	Puerto Rico Cryogenics Corporation, San Juan, PR.	9599
9607-P	A.H. Robins Company, Richmond, VA.	9607
9785-P	Ocean Star Container Lines/Intercon Shipping Inc., Jersey City, NJ.	9785
10001-P	Air Products and Chemicals, Inc., Allentown, PA.	10001
10103-P	N.N.B.—Orion, Inc., Rochester Hills, MI.	10103
10108-P	Olin Hunt Specialty Products Inc., West Paterson, NJ.	10108

This notice is receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 8, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-11535 Filed 5-12-89; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel,

4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comments must be received on or before May 30, 1989.

ADDRESS: Comments to: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application number	Applicant	Regulation(s) affected	Nature of exemption thereof
10158-N	Dynamit Nobel Special, Chemistry, West Germany.	49 CFR 173.304	To authorize shipment of a compressed gas, N.O.S., classed as a non flammable gas for shipment in non-DOT specificate cylinders. (modes 1, 3)
10161-N	Container Corporation of America, Wilmington, DE.	49 CFR 171.3(e), Part 173 subparts E, F, and H.	To authorize manufacture, mark, and sell a non-DOT specification polyethylene open-head drum for shipment of hazardous waste; corrosive; flammable; Poison B; and oxidizer solids presently authorized for shipment in a DOT Specification 21C drum. (models 1, 2, 3)
10162-N	Ibex Industries Inc., Calvert City, KY.	49 CFR Part 173 Subparts D, F, H.	To authorize manufacture marking and sale of non-DOT specification cargo tanks similar to DOT Specifications MC-307 and MC-312 cargo tanks for liquid and semi-solid waste materials classed as flammable liquid, corrosive material, and poison B. (model 1)
10163-N	Akzo Chemicals Inc., Chicago, IL	49 CFR 173.154(a)(12)	To authorize shipment of 50% benzoyl peroxide with inert solid, classed as organic peroxide, in a polyethylene bag, overpacked in a UN 4 G fiberboard box similar to a DOT specification 12B fiberboard box. (mode 1)
10164-N	Moli Energy Limited, Burnaby, B.C., CN.	49 CFR 173.1015(a)	To authorize shipment of discharged lithium batteries, comprised of one or more cells, which contained 50 grams of lithium when new, for disposal, packaged in steel drums. (mode 1)
10165-N	U.S. Olympic Festival '89, Oklahoma City, OK.	49 CFR 173.118, 173.21, 175.30, 175.85, Appendix B;, Part 107, Subparts C, D and E of Part 172.	To authorize carriage onboard an aircraft of a small quantity of a flammable liquid in a safety lamp. (mode 5)
10166-N	Dixie Poly-Drum Corp., Yemassee, SC.	49 CFR 173.12, Part 173 subparts E, F and H.	To authorize manufacture marking and sale of non-DOT specification rotatinally molded polyethylene open head laboratory waste container and over pack with a snap on cover for shipment of various corrosive, poison B, and flammable solids and etiological waste. (mode 1, 2, 3)
10167-N	FIBA Compressed Gas Equipment, Westboro, MA.	49 CFR 173.302, 173.304, 173.305, 173.306, 173.34(h).	To authorize repair of DOT Specifications 3A, 3AA, 3B and 3C cylinders by allowing peening off and on of collar/neckrings and replacement of footrings by removal with a air driven abrasive blade leaving the existing tab and stick welding on new footring to tab. (mode 1)
10168-N	Bennett Industries, Peotone, IL	49 CFR 178.19-7(3), Part 173 subpart F.	To authorize manufacture marking and sale of a non-DOT specification 90 mil, removable head, polyethylene drum similar to the DOT Specification 34 drum for transportation of corrosive materials authorized to be shipped in a DOT spec. 34 drum. (modes 1, 2, 3)
10169-N	Carolina Power & Light Company (CP&L), New Hill, NC.	49 CFR 174.715	To allow contamination limits not to exceed 10 millirem per hour at the surface or 2 millirem per hour at 1 meter from the surface of the interior of a sole use rail care used for transportation of spent nuclear fuel. (mode 2)
10170-N	Cleveland Container Corporation, Cleveland, OH.	49 CFR 178.16-7, Part 173 subparts E.	To authorize manufacture marking and sale of non-DOT specification, non-reusable molded polyethylene drum with a capacity of 10½ gallons for transportation of those flammable solids, oxidizers and organic peroxides authorized for shipment in a DOT Specification 35 drum. (modes 1, 2)
10171-N	Arbel-Fauvet-Rail, France	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks for transport of various liquified flammable gases. (modes 1, 2, 3)
10172-N	Hoover Group, Inc., Beatrice, NE	49 CFR 173 Subparts D and F Section 173.266.	To authorize manufacture, marking and sale of a non-DOT specification rotationally molded, reusable polyethylene tank within a wire frame enclosure for transporting various flammable and corrosive liquids and hydrogen peroxides Solution classed as oxidizer. (modes 1, 2)
10173-N	Olin Corporation, Stamford, CT	49 CFR 173.263(a)(10)	To authorize transportation of sodium chlorite, solution not to exceed 42 percent, classed as a corrosive material. (mode 1)
10174-N	Ethyl Corporation, Baton Rouge, LA.	49 CFR 173.206	To authorize a one-time shipment of solidified metallic sodium classed as flammable solid in a modified DOT specification 105A500W tank car. (mode 2)
10175-N	Phillips Container, Cleveland, OH	49 CFR Part 173 Subpart F	To authorize manufacture, marking, and sale of a non-DOT specification open-head 5-gallon capacity polyethylene pail for shipment of certain corrosion liquids. (mode 1)
10176-N	Eveready Battery Company, Inc., Cleveland, OH.	49 CFR 172.101, 172.400, 175.3	To authorize shipment of lithium-iron pyrite batteries, classed as flammable solid, in specially designed packagings. (modes 1, 2, 3, 4)
10177-N	Schlumberger Well Services, Rosharon, TX.	49 CFR 173.80	To authorize a one time shipment of a charged well casing jet perforating gun engaged in oil well operations to be transported by common carrier. (mode 1)

NEW EXEMPTIONS—Continued

Application number	Applicant	Regulation(s) affected	Nature of exemption thereof
10178-N	BW/IP International, Inc., Van Nuys, CA.	49 CFR 173.302, 175.3	To authorize manufacture marking and sale of a non-DOT specification steel cylinder similar to the DOT specification 39 cylinder for transportation of Helium classed as a non-flammable gas. (modes 1, 2, 4)
10179-N	USA Fertilizer Inc., Pocatello, ID	49 CFR 173.272	To authorize transport of Sulfuric acid classed as a corrosive material in non-DOT specification mild steel containers cradle supported and set in pairs, ridgidly mounted on 2 truck flat beds with each pair of tanks coupled together with piping at the top. (mode 1)
10180-N	Convenience Marine Products, Inc., Grand Rapids, MI.	49 CFR 173.304(a)(2), 173.34(d)	To manufacture, mark and sell cylinders similar to DOT Specifications 39 without a relief device to be used as a fire extinguisher charged with a nonflammable liquefied compressed gas. (mode 1)
10181-N	Anglo Airlines, Limited, Crainley, W. Sussex, England.	49 CFR 172.101, 175.30	To authorize a one time shipment of certain Class A explosives by cargo aircraft. (mode 4)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 8, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-11536 Filed 5-12-89; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. PS-104; Notice 1]

Flow Restricting Devices; Pipeline Safety

AGENCY: Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of request for information.

SUMMARY: The Pipeline Safety Reauthorization Act of 1988 (P.L. 100-561) enacted on October 31, 1988, requires the Department to undertake a study of the safety, cost, feasibility, and effectiveness of requiring gas and hazardous liquid operators to install emergency flow restricting devices in existing and future pipeline systems in varying circumstances and locations. The cost and effectiveness of a demonstration project of such devices also is to be assessed. This notice seeks input from interested persons to broaden the informational base of the study. A report with findings of the study and any recommendations for appropriate legislation is to be submitted to Congress by October 31, 1989.

DATES: Interested parties are invited to submit comments by July 14, 1989.

ADDRESS: Send comments in duplicate to the Dockets Unit, Room 8417, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8426 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, (202) 366-4556, regarding the subject matter of this document, or the Dockets Unit, (202) 366-5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION: Information is needed from interested parties on the technical issues and cost issues raised in the public law in order to develop a complete record on which to base a report to Congress. The purpose of this notice is to request such information. Installation of flow restricting devices is being considered on gas and hazardous liquid transmission lines only, not on gas distribution lines. This decision is made based on comments to Docket No. PS-93 (to be discussed later in this notice) that the piping of distribution systems is too complex for such installations. Notwithstanding, the valves and other pressure control devices located at pressure regulator stations (end of transmission lines) serving as transfer points to distribution centers will be considered in the assessment.

The focus of this Congessional concern was an event which occurred on July 8, 1986, when a Williams Pipe Line Company 8-inch hazardous liquid pipeline sustained a ruptured pipe seam in Mounds View, Minnesota. The accident resulted in two deaths, one injury, and property damage well in excess of $1,000,000. The accident was exacerbated by back flow or draining from the pipeline after the manually operated valves on either side of the ruptured section were closed. The spill ignited in 20 minutes and it took over 1 hour and 40 minutes from the time of the rupture to when the pipeline section involved was isolated by closing the valves. One of the actions taken as a result of this accident was that Williams Pipe Line Company installed remotely controlled valves on each side of Mounds View, a spacing of about 5.8 miles.

Closer valve placement might have reduced the spillage from some other recent hazardous liquid pipeline failures. Three examples are cited:

(1) A failure of a pipe seam in May 1986 in Minnesota resulting in a spill of 25,000 gallons of fuel oil.

(2) A crude oil pipeline spill of 863,300 gallons in Missouri in December 1988 from a failed pipe seam.

(3) A pipe seam failure in Texas in January 1989 resulting in a spill of 988,400 gallons of crude oil.

In the last failure cited, the pipeline pumps were reported to have been shut down in about 8 minutes, but the crude oil continued to drain from about 19 miles of pipeline which was at a higher elevation than the rupture.

Limiting spillage after a pipeline failure by either a remotely controlled valve (RCV) or an automatically controlled valve (ACV) has been studied by OPS in the past. It was the subject of a contract study in 1973-74, also regulatory proceedings concerning valve spacing requirements on pipelines carrying highly volatile liquids (HVL) in inhabited areas (Docket No. PS-53), and another regulatory proceeding which included the spacing of RCVs and ACVs on pipelines (Docket No. PS-93). There were considerable technical data and cost data generated from these past OPS actions. The OPS anticipates receiving a significant amount of new information due to technological advances in

equipment to operate RCVs and ACVs since the PS–53 proceeding, which was conducted in 1981. Also, updated cost figures on such valve installations are anticipated.

Both the Federal gas pipeline safety regulations (49 CFR Part 192) and the hazardous liquid pipeline safety regulations (49 CFR Part 195) contain valve placement provisions. However, neither set of regulations require the valves to be operated automatically or remotely controlled.

Background

In 1973 the Department initiated a contract to study the rapid shutdown of failed pipeline systems. The purpose of this study was to determine the state-of-the-art of equipment and systems used to rapidly shut down failed pipelines and limit pressure to prevent failure. The final report dated October 31, 1974, is titled "Rapid Shutdown of Failed Pipeline Systems and Limiting of Pressure to Prevent Pipeline Failure Due to Overpressure." The report is available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22151.

There was insufficient failure information available at the time of the study to substantiate that the rapid shutdown devices identified had reduced accident severity by limiting discharge of the commodity being transported. However, the study established a strong correlation between accident effects (fatalities, injuries, and property damage) and amount of product discharge from hazardous liquid pipelines. This correlation was based on a review of the limited number of accidents available for analysis in the early 1970s.

Because accident data revealed strong correlation between accident effects and the amount of hazardous liquid product discharge, the study report recommended that mainline valves on hazardous liquid pipelines in populated areas be spaced according to the industry code, Liquid Petroleum Transportation Piping Systems, ANSI B31.4 (1974 edition). At that time, this industry code specified a maximum spacing of RCVs of 7.5 miles on piping systems transporting liquefied petroleum gas (LPG) in industrial, commercial, or residential areas and a maximum spacing of 10 miles for valves on systems transporting other liquid petroleum. The 10-mile spaced valves were not required to be remotely controlled. A spokesman for the ANSI B31.4 Committee stated in a later RSPA regulatory proceeding that the reason the B31.4 Code required closely spaced valves in industrial, commercial, and residential areas was to reduce the duration of the hazard and facilitate pipeline repair, not to prevent or reduce the magnitude of the hazard. The valve spacing requirement of 10 miles on non-LPG pipelines has since been removed from the B31.4 Code along with the requirement that valves on LPG pipelines be remotely controlled.

Supporting studies from the National Transportation Safety Board (NTSB) and a DOT contract study by Battelle Laboratories in addition to the recommendation from the rapid shutdown study resulted in a regulatory proposal in 1978 (Docket No. PS–53) to limit spillage from a pipeline carrying HVL in inhabited areas. (The term "HVL" is defined in § 195.2 as a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kPa (40 psia) at 37.8°C (100°F). The commodities included in the term "HVL," are LPG and anhydrous ammonia and certain natural gas liquids.)

Notice No. 1 in Docket No. PS–53 (43 FR 39402, September 5, 1978) proposed that ACVs or RCVs be installed in inhabited areas on both newly constructed HVL pipelines, and on existing HVL pipelines that are replaced, relocated, or otherwise changed, at points on the pipeline which are more than 6.0 km (3.7 mi) from a sectionalizing valve.

There were widely conflicting views in the responses to the notice. Some totally rejected the idea of specific intervals for installing valves. Others recommended installing valves only at pump stations and terminals. Few of the recommendations were well supported with meaningful information.

In view of the disparity of views, and the general lack of supporting information, publication of another notice (44 FR 53187, September 13, 1979) proposed the adoption of two alternative valve spacing requirements. One alternative would have adopted the concept of class locations and valve spacing requirements similar to the requirements of §§ 192.5 and 192.179 of 49 CFR Part 192 for new HVL pipelines and for existing HVL pipelines which are relocated, replaced, or otherwise changed. However, the proposed valves would be remotely controlled. The second alternative would require installation of remotely controlled valves on both new and existing onshore HVL pipelines to permit isolation of pipeline segments from pump station to pump station and from pump station to terminal. Neither of these alternative proposals provided for the installation of automatic valves in lieu of RCVs, as did the original proposal, because responses to that notice indicated that automatic valves are not reliable, especially in pipelines transporting several commodities of different physical characteristics, such as might frequently be found in HVL pipelines.

Studies by the B31.4 Committee and the American Petroleum Institute clearly demonstrated that closely spaced valves over the full length of HVL pipelines were not a reasonable means to reduce the accident effects. Based on these studies, the Department decided to withdraw the proposal.

The question of requiring RCVs and ACVs was again addressed by OPS in a February 6, 1987, Advance Notice of Proposed Rulemaking (Docket No. PS–93; Notice 1). This advance notice invited public comment on whether certain proposals for new or amended standards were needed for the safety of gas or hazardous liquid pipelines. These proposals were advanced in part by Congress and by the Minnesota Commission on Pipeline Safety as a result of the Williams Pipe Line Company pipeline accident in Mounds View, Minnesota.

Proposal No. 4 in this advance notice proposed to "convert required shutoff valves on existing pipelines to work automatically and require new pipelines to be equipped with automatic shutoff valves."

The commenters in response to questions posed in the advance notice indicated that neither RCVs nor ACVs are installed as shutoff valves as standard practice. Many of the commenters indicated that ignition usually occurred before either type of valve could shut down a pipeline. The concern of potential hazard for false closure of ACVs was brought out by the comments. Cost estimates ranged to several billion dollars for the entire industry.

The advance notice was discussed at a joint meeting of the two OPS technical advisory committees, the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committe, on September 23, 1987. The committees recommended that OPS study the possible uses of RCVs and ACVs in selected situations.

Because of a concern for a possible reduction in safety due to the rapid changes in the transportation environment resulting from technological advances and economic deregulation, the Secretary established a Safety Review Task Force with the

mandate to review and analyze the safety programs conducted by the DOT. The January 1989 final report on the pipeline safety program, "Safety Review Task Force Report on the Research and Special Programs Administration's Pipeline Safety Program," included the recommendation that "RSPA should develop criteria for the use of automatic and remotely controlled valves on hazardous liquid pipelines."

Questions

The questions which follow are intended to focus public discussion on the issues of installing flow restricting devices identified by commenters on existing and new pipelines, including RCVs and ACVs. The OPS believes that more sophisticated systems for leak detection and emergency control on pipelines have been installed in recent years, and that the experience acquired from designing and operating these Supervisory Control and Data Acquisition (SCADA) systems may provide new information relevant to this study, particularly regarding hazardous liquid pipelines.

The RSPA is particularly interested in receiving comments that address the safety of valve installations and discuss the feasibility and cost effectiveness of such valve installations. In response to this notice, commenters are requested to use the same numbering system used in the notice. Commenters may assume that the proposals relate to interstate and intrastate gas transmission and hazardous liquid pipelines.

Identify Flow Restricting Devices

The study is to address the installation of "emergency flow restricting devices" on existing and new pipelines. While this term is not defined in the legislation, the term is interpreted to include block valves, plug and ball valves, flow control valves, pressure limiting and control valves, relief valves, and check valves as types of valves that will accomplish flow restriction. The term is also interpreted to encompass all means of activation.

Question 1: Do the valves identified above have application as "emergency flow restricting devices?"

Question 2: What type of devices other than valves named above should be included as "emergency flow restricting devices" in this study for rapidly isolating a pipeline section subsequent to a failure? If there are other types, could they be operated automatically or remotely controlled?

Identify SCADA Technology

SCADA systems are being installed on many pipelines utilizing computer technology to gather pressure, temperature, delivery flow valves, and other data continuously from remote locations on the pipeline. Computer analysis of this data is used to assist in day-to-day operating decisions on the pipeline and to provide input for real-time models of the pipeline operation which can identify, size, and locate leaks.

Queston 3: The following information on SCADA as it relates to the installation of emergency flow restricting devices is needed by OPS:

3a: What is the sensitivity in detecting imbalance?

3b: What are typical time periods required to respond to abnormal or emergency conditions?

3c: What types of communication systems and control systems are used in SCADA?

3d: What are optimum systems for limiting discharge from a failed pipeline as related to valve type and valve spacing?

Safety of Installing RCVs and ACVs

One consideration with the installation of RCVs and ACVs is the alleged problems that can result from such installations. For instance, past comments to studies and regulatory proceedings have pointed out that unintended or improper closures of automatic valves, particularly on hazardous liquid pipelines, can cause potentially hazardous situations because of the surge pressures created. We are interested in obtaining information, including reliability, from manufacturers of these valves and manufacturers of controls, specifically on whether there have been documented cases of unintended closure of ACVs, and problems that may be associated with installation and control of RCVs. Also, the relative reliability of converting existing valves to RCVs and ACVs or maintaining them as manually operated valves should be addressed.

Question 4: The following information on the safety of installing RCVs and ACVs is needed by OPS:

4a: Information on the reliability of RCVs as compared to the reliability of ACVs on pipelines that have used these types of operators or valves.

4b: Documented cases from pipeline operators of unintended or improper closure of RCVs.

4c: Documented cases from pipeline operators of unintended or improper closure of ACVs.

Limiting a Spill

One approach to reducing spillage is to space valves based on a maximum allowable spill. Some commenters in the past have pointed out that damage from a spill in terms of death, injury, and property damage can be reduced after a failure by adopting a spill limitation. RSPA would like further public comment on a maximum spill value.

The maximum allowed spill in thousand cubic feet (MCF) of gas or barrels of hazardous liquid (one barrel equals 42 gallons) would have two components: Dynamic and static. The dynamic component is the amount of commodity lost from the pipeline from the time of the failure to the time the pipeline system is shutdown and valves on either side of the failure are closed (one of the valves could be a check valve). The static component is drainage from the pipeline after the valves on each side of the failure are closed. This dual component approach was used by Alyeska Pipeline Service Company (Alyeska) in developing its valving plan for the 48-inch diameter Trans-Alaska crude oil pipeline. The valving plan was approved by the Department (39 FR 45310, December 31, 1974). Alyeska's criterion was a maximum spill of 64,000 barrels of crude oil with a static component of 50,000 barrels.

Question 5: Discuss the advantages and disadvantages of establishing a valve spacing based on a maximum allowed spill criterion.

Question 6: If the spacing of RCVs and ACVs is determined by a maximum spill from the pipeline, what should that maximum spill value be?

Cost of Converting Existing Valves

RSPA needs to assess the costs that would be incurred if existing manually operated valves are converted to RCVs or ACVs. To accomplish this, both equipment installation cost and annual operating cost must be considered. The next question is addressed primarily to pipeline operators.

Question 7: For the existing valves on gas transmission pipelines outside Class location 1 areas (defined in § 192.5) or hazardous liquid pipelines outside of rural areas (defined in § 195.3), what would be the total cost of installing RCVs or ACVs on your system and the total annual operating cost? How would the operating cost of RCVs or ACVs on your system compare with the present operating cost of manual valves? Indicate the miles of pipeline covered by these cost figures and which you would recommend, RCVs or ACVs, and the reasons for the selection.

Cost of Installing RCVs and ACVs on New Pipelines

The RSPA needs to obtain the equipment installation and operating

costs of RCVs and ACVs on new pipelines and compare these costs with the cost of installation and operating costs of manually operated valves at the same location. For the costs to be of greatest use to RSPA, they should be based on the size of the valve or a range of sizes. For developing this last information, RSPA has chosen four ranges of sizes: under 8 inch in diameter, 8 inch up to 20 inch in diameter, 20 inch up to 30 inch in diameter, and 30 inch and above.

Question 8: For the ranges of valve size stated above, provide the equipment installation cost and annual operating cost for each of the following on a new pipeline: manually operated valve, RCV and ACV.

Criteria for Valve Spacing

The RSPA requests public discussion on describing or listing locations where RCVs or ACVs should be placed in order to limit spillage. Public comment on this issue is important so that RSPA can be assured that all locations have been considered. In past questions in this notice, RSPA has considered: (1) A spill limitation value; (2) pipelines outside of Class location 1 areas on gas pipelines; and (3) pipelines outside of rural areas on liquid pipelines. There may be other areas which should be considered (such as on either side of shopping centers, schools, or other areas of public assembly) or possibly the locations already considered by RSPA are not correct.

Question 9: Where should RCVs and ACVs be placed and why?

Initiating a Demonstration Project

Public Law 100–561 requires the Secretary of Transportation to "* * * assess the cost and effectiveness of initiating a demonstration project * * *" concerning emergency flow restricting devices. The RSPA requests public comment on this provision of the public law. Describing a variety of projects with attendant costs would enable RSPA to choose the one, if any, which would demonstrate the most features. Written documentation of past experience in the use of various devices by pipeline operators who have devices already installed is solicited.

Question 10: What are some possible demonstration projects of emergency flow restricting devices with attendant costs and describe criteria for evaluating the anticipated effectiveness of the suggested projects?

General Questions

Question 11: Should valve spacing be the same in rural and nonrural areas?

Question 12: Should operators have better capability to close valves in urban areas than rural areas? If not, why not?

Question 13: For various reasons, some operators have taken a long time to close valves after detection of failure. What should be the maximum time for closing valves?

Question 14: What is the additional cost of accident effects when flow cannot be shut off?

Question 15: Should any of the valve locations described in § 192.179 for gas transmission and § 195.260 for hazardous liquid require RCVs or ACVs?

Authority: 49 App. U.S.C. 1681 and 2010; sec. 305 Pub. L. 100–561.

Issued in Washington, DC, on May 9, 1989.

Richard L. Beam,

Director, Office of Pipeline Safety, Research & Special Programs, Administration.

[FR Doc. 89–11539 Filed 5–12–89; 8:45 am]

BILLING CODE 4910–60–M

[Docket No. PS–105; Notice 1]

Instrumented Internal Inspection Devices

AGENCY: Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of request for information.

SUMMARY: The Pipeline Safety Reauthorization Act of 1988 (Pub. L. 100–561), signed into law by the President on October 31, 1988, contains a provision requiring the Secretary of Transportation to undertake a study to assess the feasibility of requiring the inspection of gas and hazardous liquid transmission facilities with instrumented internal inspection devices at periodic intervals after considering certain factors. This notice seeks input from interested persons to broaden the information base of the study. A report detailing findings of the study with any recommendations for appropriate legislation is to be submitted to Congress by April 30, 1990.

DATE: Interested parties are invited to submit comments on or before June 29, 1989.

ADDRESS: Send comments in duplicate to the Dockets Unit, Room 8417, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8426 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 366–4561, regarding the subject matter of this document, or the Dockets Unit, (202) 366–5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION: The most effective method of gathering data needed to develop this report is by soliciting information from interested parties to a series of questions dealing with the technical issues addressed by Congress. The purpose of this notice is to gather that data, as well as certain cost data involving the use of inspection devices.

Examining the feasibility involves the consideration of two components concerning the requirement for inspection of pipeline facilities with instrumented internal inspection devices (commonly called "pigs" in industry parlance). The first component is the capability of the pipeline to be pigged. This aspect of the examination focuses on the existence of inpediments, such as reduced bore valves or sharp bends, that may prevent pigging. The magnitude of costs to modify those existing pipelines that have impediments so they can be pigged will determine the first component of feasibility. The second component is the complexity of establishing a pig surveying methodology using the factors in Pub. L. 100–561 (to be discussed later). Feasibility will be judged by establishing criteria to determine when pipelines should be surveyed using instrumented pigs. Questions in this notice address these two components.

The results of several corrosion-related accident investigations indicate that the only way an operator can be assured that the pipeline wall thickness has not been reduced to an unsafe level due to corrosion is to first conduct a pig survey. Based on the survey, the pipeline can then be excavated and the pipe examined as necessary.

The types of pipeline inspection utilizing instrumented pigs fall into three basic categories: Inspection of geometric tolerance deviation resulting in pipe dents and buckling, general and localized pitting corrosion, and cracks or crack-like defects. Instrumented pigs have been available for the assessment of degradated areas in line pipe for at least 20 years. The most commonly used instrumented pigs are the geometry pig and the magnetic flux leakage pig.

Background

Neither the Federal gas pipeline safety regulations (49 CFR Part 192) nor the hazardous liquid pipeline safety regulations (49 CFR Part 195) require the use of instrumented pigs. However, the rules require other tests and inspections that address the same problems as the instrumented pigs.

In 1986, the Department completed a study mandated under section 5 of Pub. L. 98–464 in which the Secretary was required to study the feasibility of and costs associated with requiring various methods of testing and inspecting hazardous liquid pipelines subject to the provisions of the Hazardous Liquid Pipeline Safety Act.

The study concluded it was not feasible on a cost versus benefit basis to justify requiring the testing/inspection of all operating pipelines under the Department's jurisdiction on a periodic basis. The study recommended the continued use of magnetic flux leakage pig surveys only where necessary to determine the condition of the pipe in enforcement cases involving the loss of pipe wall due to corrosion.

Following this study, OPS proposed a research program to determine the feasibility of establishing criteria to survey pipelines with instrumented pigs to detect corrosion and other pipe wall anomalies. The criteria would include both the selection of pipelines on which pigs would be run and the frequency of those runs. This research program was endorsed at a joint meeting of the two OPS technical advisory committees—the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee. The mandated study in Pub. L. 100–561 closely resembles the proposed OPS project.

The National Transportation Safety Board (NTSB) investigated two corrosion failures in Kentucky in 1985 and 1986 and issued a report in 1987 on both failures (NTSB/PAR–87/01). The report contained a number of recommendations on the use of instrumented pigs, including one to make future pipelines receptive to pig surveys and another establishing criteria for determining when pig surveys should be conducted.

The investigation of a petroleum products pipeline accident in Mounds View, Minnesota, resulting in an explosion and fire which killed two people, and a report on pipeline safety issued by the Minnesota Office of Pipeline Safety led to the issuing of an Advance Notice of Proposed Rulemaking in Docket PS–93 (52 FR 4361, February 11, 1987). There were 18 separate proposals included in the advance notice. Proposal 6 solicited interested parties to respond to the question: "Under what conditions should OPS require the use of smart pigs?" Comments to this question indicated that many transmission and distribution systems are not designed to accommodate instrumented pigs.

The PS–93 advance notice was discussed at a joint meeting of the two OPS technical advisory committees on September 23, 1987. In regard to the pigging proposal, the joint committee stated that "smart pig" use should generally be limited to special cases, such as for corrective enforcement action. The joint committee also recommended that DOT study the potential for use of "smart pigs" in appropriate circumstances.

Public Law 100–561 requires that the Department conduct a study to assess the feasibility of requiring operators to pig their lines at periodic intervals determined in consideration of certain operational factors. The factors are set out in Sections 108 and 207 of Pub. L. 100–561:

(A) The location of the pipeline facilities.

(B) The type, size, age, manufacturer, method of construction, and condition of the pipeline facilities.

(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

(E) The frequency of leaks, if any.

(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.

Pig surveys were also addressed in the January 1989 final report on the pipeline safety program by the Secretary of Transportation's Safety Review Task Force. Because of a concern for a possible reduction in safety due to the rapid changes in the transportation environment resulting from technological advances and economic deregulation, the Secretary established a Safety Review Task Force with the mandate to review and analyze the safety programs conducted by the DOT. The Task Force recommended that "* * * RSPA should establish criteria for determining when pigging of pipelines is necessary."

Questions

The questions which follow are intended to focus public discussion on the issue of determining the feasibility of establishing criteria for conducting instrumented pig surveys on existing and new pipelines.

RSPA is particularly interested in receiving comments regarding the conducting of pig surveys on existing pipelines, including any design limitations, and what factors should be considered in addition to those listed in Sections 108 and 207 of Pub. L. 100–561. Comments should also include a prioritization of these factors. The related costs should also be addressed. In response to this notice, commenters are requested to use the same numbering system used in the notice. Commenters should assume that the proposals relate to interstate and intrastate gas transmission and hazardous liquid pipelines. Onshore and offshore facilities for pigging may pose different problems. If so, this should be specifically discussed.

Pigging Feasibility on Existing Pipelines

One of the items this study is to address is the feasibility of and opportunities for conducting instrumented pig surveys on existing pipelines. A future regulatory proceeding will address the design and construction of new pipelines to accommodate instrumented pigs as required by sections 108 and 207 of Pub. L. 100–561. We must determine from pipeline operators the mileage of pipeline systems which were constructed to accommodate pigs, including the costs which would be involved to modify existing pipelines to accommodate instrumented pigs. Also, information on pig launching and receiving facilities (pig traps) must be gathered.

For the purpose of this notice, a pipeline can accommodate instrumented pigs if the following exist. All valves are full opening and sized to be no less than the internal pipe diameter. All bends and out-of-round areas are of a minimum radius which allows for the passage of instrumented pigs, and each tee placed in the pipeline is fabricated to allow for the passage of instrumented pigs. Finally, there are no other obstructions within the pipeline.

Question 1: What is the total mileage in your pipeline system (excluding gathering and distribution)? Specify by type (gas transmission or hazardous liquid).

Question 2: Concerning the pipeline system capable of accommodating instrumented pigs:

2a: How many miles of your existing pipeline system are presently constructed to accommodate instrumented pigs, but have no

permanent pig traps in place? Please respond by pipe diameter.

2b: What percentage of the total mileage of your existing pipeline system (excluding gathering and distribution) does the response to 2a represent?

2c: How many miles of your existing pipeline system that can accommodate instrumented pigs have pig traps in place? Please respond by pipe diameter.

2d: What percentage of the total mileage of your existing pipeline system (excluding gathering and distribution) does the response to 2c represent?

Question 3: Concerning costs to modify your pipeline system and install pig traps:

3a: How much would it cost to modify your system to accommodate instrumented pigs, excluding the installation of pig traps? Please respond on a per mile basis in the following four pipe diameter ranges: under 8 inch, 8 inch up to 20 inch, 20 inch up to 30 inch, and 30 inch and above.

3b: How much would it cost to install pig traps on that part of your system reported in 3a? Please respond on a per mile basis by pipe diameter ranges as in 3a.

3c: How much would it cost to install pig traps on that part of your system which can already accommodate instrumented pigs not covered by 3a? Please respond on a per mile basis by pipe diameter ranges as in 3a.

3d: Would you install temporary or permanent pig traps? Please provide the rationale for your answer and indicate in the responses to 3b and 3c whether the cost is based on temporary or permanent pig traps.

Pigging Experience

The RSPA needs to obtain information concerning the past experience in the pipeline industry with running instrumented pigs.

Question 4: Has your company conducted instrumented pig surveys? If yes, what type of pig (e.g., sizing, magnetic flux leakage, camera, ultrasonic), how many miles run of each type, and at what frequency?

Question 5: Why did your company conduct the instrumented pig surveys indicated in response to Question 4?

Question 6: What modifications, if any, were required on the pipeline in order to conduct the surveys indicated in response to Question 4?

Question 7: Was the data generated from the instrumented pig surveys accurate?

Question 8: Was remedial action taken as a result of the pig surveys? If so, what action was taken?

Criteria for Pigging

The RSPA needs public input concerning criteria which a pipeline operator might establish to determine when to conduct surveys with instrumented pigs. While the study conducted by the Department in 1986 concluded it was not cost effective to require all pipelines to be tested on a regular interval, some operating pipelines may need to be surveyed periodically based on the condition of the pipeline.

Sections 108 and 207 of Pub. L. 100–561 include the set of factors which are to be considered when deciding to conduct an instrumented pig survey. These factors along with the factors from three pipeline operators' priority systems have been considered in the following 10 specific safety-related factors which might be used. The 10 factors are:

(1) Population density.
(2) Location relative to potential ground movement (e.g., from seismic faults, rock quarries, and coal mines).
(3) Leak history.
(4) Type of pipeline coating and quality of coating.
(5) Known corrosion.
(6) Age of pipeline, including type of pipe seam.
(7) Security of throughput (effects on customers if there is a failure requiring a shut down).
(8) Pipe wall thickness.
(9) Time from latest hydrostatic test.
(10) Time from latest instrumented pig survey.

Question 9: Should criteria based on these 10 factors be used to determine when an instrumented pig survey should be conducted? Please explain.

Question 10: What other items should be included in the above list of 10 factors?

Question 11: The 10 factors above are not listed in any priority. What should be priority be, including any additional factors in response to Question 10 with the most important factor first and the least important last? Please discuss the rationale for arriving at the priority.

Question 12: Please discuss how such a criteria would be used to determine which pipelines in a pipeline system should undergo a pig inspection survey.

Authority: 49 App. U.S.C. 1681 and 2010; sec. 304 Pub. L. 100–561.

Issued in Washington, DC, on May 9, 1989.

Richard L. Beam,

Director, Office of Pipeline Safety, Research and Special Programs, Administration.

[FR Doc. 89–11540 Filed 5–12–89; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 14–89]

8⅞% Treasury Bonds of 2019

Washington, May 4, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,500,000,000 of United States securities, designated 8⅞% Treasury Bonds of 2019 (CUSIP No. 912810 EC 8), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. Additional amounts of the Bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The Bonds will be issued May 15, 1989, and are offered as an additional amount of 87/8% Treasury Bonds of 2019 (CUSIP No. 912810 EC 8) dated February 15, 1989. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from February 15, 1989, to May 15, 1989. Interest on the Bonds offered as an additional issue is payable on a semiannual basis on August 15, 1989, and each subsequent 6 months on February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 2019, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempted from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be accepted to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form, and in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those

amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the "Treasury Direct" Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, May 11, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, May 10, 1989, and received no later than Monday, May 15, 1989.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 9.61% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competiive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, *e.g.*, 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yeild. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from February 15, 1989, to May 15, 1989, in the amount of $21.81975 per $1,000 of Bonds allotted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, May 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 11, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, May 15, 1989. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds alllotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in "Treasury Direct" are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in "Treasury Direct" must be completed to show all the information required thereon, or the "Treasury Direct" account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Bond to be separated into the components described in section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum par amount required to obtain the separate components for this offering is $1,600,000. Par amounts greater than the minimum amount must be in multiples of that amount.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a Bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachment A is incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

ATTACHMENT A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Bonds of February 15, 2019, CUSIP No. 912810 EC 8

The Principal Component is designated 8⅞% Treasury Principal (TPRN) 2019 due February 15, 2019, CUSIP No. 912803 AQ 6.

INTEREST COMPONENTS

Designation	CUSIP Number 912833	Designation	CUSIP Number 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
August 15, 1989	BE 9	August 15, 2004	CL 2
February 15, 1990	BF 6	February 15, 2005	CM 0
August 15, 1990	BG 4	August 15, 2005	CN 8
February 15, 1991	BH 2	February 15, 2006	CP 3
August 15, 1991	BJ 8	August 15, 2006	CQ 1
February 15, 1992	BK 5	February 15, 2007	CR 9
August 15, 1992	BL 3	August 15, 2007	CS 7
February 15, 1993	BM 1	February 15, 2008	CT 5
August 15, 1993	BN 9	August 15, 2008	CU 2
February 15, 1994	BP 4	February 15, 2009	CV 0
August 15, 1994	BQ 2	August 15, 2009	CW 8
February 15, 1995	BR 0	February 15, 2010	CX 6

INTEREST COMPONENTS—Continued

Designation	CUSIP Number 912833	Designation	CUSIP Number 912833
August 15, 1995	BS 8	August 15, 2010	CY 4
February 15, 1996	BT 6	February 15, 2011	CZ 1
August 15, 1996	BU 3	August 15, 2011	DA 5
February 15, 1997	BV 1	February 15, 2012	DB 3
August 15, 1997	BW 9	August 15, 2012	DC 1
February 15, 1998	BX 7	February 15, 2013	DD 9
August 15, 1998	BY 5	August 15, 2013	DE 7
February 15, 1999	BZ 2	February 15, 2014	DF 4
August 15, 1999	CA 6	August 15, 2014	DG 2
February 15, 2000	CB 4	February 15, 2015	DH 0
August 15, 2000	CC 2	August 15, 2015	JT 8
February 15, 2001	CD 0	February 15, 2016	KG 4
August 15, 2001	CE 8	August 15, 2016	KJ 8
February 15, 2002	CF 5	February 15, 2017	KL 3
August 15, 2002	CG 3	August 15, 2017	KN 9
February 15, 2003	CH 1	February 15, 2018	KQ 2
August 15, 2003	CJ 7	August 15, 2018	KS 8
February 15, 2004	CK 4	February 15, 2019	KU 3

[FR Doc. 89-11618 Filed 5-10-89; 4:28 pm]
BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 13-89]

Treasury Notes of May 15, 1999, Series B-1999

Washington, May 4, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,500,000,000 of United States securities, designated Treasury Notes of May 15, 1999, Series B-1999 (CUSIP No. 912827 XN 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated May 15, 1989, and will accrue interest from that date, payable on a semiannual basis on November 15, 1989, and each subsequent 6 months on May 15 and November 15 through the date that the principal becomes payable. They will mature May 15, 1999, and will not be subject to call for redemption prior to mauturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any posesssion of the United states, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000 and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the "Treasury Direct" Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, May 10, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 9, 1989, and received no later than Monday, May 15, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minumum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank of Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Monday, May 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 11, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, May 15, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in "Treasury Direct" are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in "Treasury Direct" must be completed to show all the information required thereon, or the "Treasury Direct" account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in section 6.1, the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Note may be separated into its components at any time from the issue date until maturity. A request for

separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

ATTACHMENT A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of May 15, 1999, Series B–1999, CUSIP No. 912827 XN 7.

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series B–1999 due May 15, 1999, CUSIP No. 912820 AS 6.

INTEREST COMPONENTS

Designation	CUSIP Number 912833	Designation	CUSIP Number 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
November 15, 1989	EP 1	November 15, 1994	EZ 9
May 15, 1990	EQ 9	May 15, 1995	FA 3
November 15, 1990	ER 7	November 15, 1995	FB 1
May 15, 1991	ES 5	May 15, 1996	FC 9
November 15, 1991	ET 3	November 15, 1996	FD 7
May 15, 1992	EU 0	May 15, 1997	FE 5
November 15, 1992	EV 8	November 15, 1997	FF 2
May 15, 1993	EW 6	May 15, 1998	FG 0
November 15, 1993	EX 4	November 15, 1998	FH 8
May 15, 1994	EY 2	May 15, 1999	FJ 4

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000.

Coupon (percent)	Minimum face (dollars)	Interest payment (dollars)	Coupon (percent)	Minimum face (dollars)	Interest payment (dollars)	Coupon (percent)	Minimum face (dollars)	Interest payment (dollars)
5.000	40,000.00	1,000.00	10.125	1,600,000.00	81,000.00	15.250	800,000.00	61,000.00
5.125	1,600,000.00	41,000.00	10.250	800,000.00	41,000.00	15.375	1,600,000.00	123,000.00
5.250	800,000.00	21,000.00	10.375	1,600,000.00	83,000.00	15.500	400,000.00	31,000.00
5.375	1,600,000.00	43,000.00	10.500	400,000.00	21,000.00	15.625	64,000.00	5,000.00
5.500	400,000.00	11,000.00	10.625	320,000.00	17,000.00	15.750	800,000.00	63,000.00
5.625	320,000.00	9,000.00	10.750	800,000.00	43,000.00	15.875	1,600,000.00	127,000.00
5.750	800,000.00	23,000.00	10.875	1,600,000.00	87,000.00	16.000	25,000.00	2,000.00
5.875	1,600,000.00	47,000.00	11.000	200,000.00	11,000.00	16.125	1,600,000.00	129,000.00
6.000	100,000.00	3,000.00	11.125	1,600,000.00	89,000.00	16.250	160,000.00	13,000.00
6.125	1,600,000.00	49,000.00	11.250	160,000.00	9,000.00	16.375	1,600,000.00	131,000.00
6.250	32,000.00	1,000.00	11.375	1,600,000.00	91,000.00	16.500	400,000.00	33,000.00
6.375	1,600,000.00	51,000.00	11.500	400,000.00	23,000.00	16.625	1,600,000.00	133,000.00
6.500	400,000.00	13,000.00	11.625	1,600,000.00	93,000.00	16.750	800,000.00	67,000.00
6.625	1,600,000.00	53,000.00	11.750	800,000.00	47,000.00	16.875	320,000.00	27,000.00
6.750	800,000.00	27,000.00	11.875	320,000.00	19,000.00	17.000	200,000.00	17,000.00
6.875	320,000.00	11,000.00	12.000	50,000.00	3,000.00	17.125	1,600,000.00	137,000.00
7.000	200,000.00	7,000.00	12.125	1,600,000.00	97,000.00	17.250	800,000.00	69,000.00
7.125	1,600,000.00	57,000.00	12.250	800,000.00	49,000.00	17.375	1,600,000.00	139,000.00
7.250	800,000.00	29,000.00	12.375	1,600,000.00	99,000.00	17.500	80,000.00	7,000.00

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000.—Continued

Coupon (percent)	Minimum face (dollars)	Interest payment (dollars)	Coupon (percent)	Minimum face (dollars)	Interest payment (dollars)	Coupon (percent)	Minimum face (dollars)	Interest payment (dollars)
7.375	1,600,000.00	59,000.00	12.500	16,000.00	1,000.00	17.625	1,600,000.00	141,000.00
7.500	80,000.00	3,000.00	12.625	1,600,000.00	101,000.00	17.750	800,000.00	71,000.00
7.625	1,600,000.00	61,000.00	12.750	800,000.00	51,000.00	17.875	1,600,000.00	143,000.00
7.750	800,000.00	31,000.00	12.875	1,600,000.00	103,000.00	18.000	100,000.00	9,000.00
7.875	1,600,000.00	63,000.00	13.000	200,000.00	13,000.00	18.125	320,000.00	29,000.00
8.000	25,000.00	1,000.00	13.125	320,000.00	21,000.00	18.250	800,000.00	73,000.00
8.125	320,000.00	13,000.00	13.250	800,000.00	53,000.00	18.375	1,600,000.00	147,000.00
8.250	800,000.00	33,000.00	13.375	1,600,000.00	107,000.00	18.500	400,000.00	37,000.00
8.375	1,600,000.00	67,000.00	13.500	400,000.00	27,000.00	18.625	1,600,000.00	149,000.00
8.500	400,000.00	17,000.00	13.625	1,600,000.00	109,000.00	18.750	32,000.00	3,000.00
8.625	1,600,000.00	69,000.00	13.750	160,000.00	11,000.00	18.875	1,600,000.00	151,000.00
8.750	160,000.00	7,000.00	13.875	1,600,000.00	111,000.00	19.000	200,000.00	19,000.00
8.875	1,600,000.00	71,000.00	14.000	100,000.00	7,000.00	19.125	1,600,000.00	153,000.00
9.000	200,000.00	9,000.00	14.125	1,600,000.00	113,000.00	19.250	800,000.00	77,000.00
9.125	1,600,000.00	73,000.00	14.250	800,000.00	57,000.00	19.375	320,000.00	31,000.00
9.250	800,000.00	37,000.00	14.375	230,000.00	23,000.00	19.500	400,000.00	39,000.00
9.375	64,000.00	3,000.00	14.500	400,000.00	29,000.00	19.625	1,600,000.00	157,000.00
9.500	400,000.00	19,000.00	14.625	1,600,000.00	117,000.00	19.750	800,000.00	79,000.00
9.625	1,600,000.00	77,000.00	14.750	800,000.00	59,000.00	19.875	1,600,000.00	159,000.00
9.750	800,000.00	39,000.00	14.875	1,600,000.00	119,000.00	20.000	10,000.00	1,000.00
9.875	1,600,000.00	79,000.00	15.000	40,000.00	3,000.00	20.125	1,600,000.00	161,000.00
10.000	20,000.00	1,000.00	15.125	1,600,000.00	121,000.00	20.250	800,000.00	81,000.00

[FR Doc. 89-11617 Filed 5-10-89; 4:27 pm]
BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 12-89]

Treasury Notes of May 15, 1992, Series S-1992

Washington, May 4, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,750,000,000 of United States securities, designated Treasury Notes of May 15, 1992, Series S-1992 (CUSIP No. 912827 XM 9), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated May 15, 1989, and will accrue interest from that date, payable on a semiannual basis on November 15, 1989, and each subsequent 6 months on May 15 and November 15 through the date that the principal becomes payable. They will mature May 15, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the "Treasury Direct" Book-Entry Securities System in 51 FR 18260, *et seq.* (May 6, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, May 9, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 8, 1989, and received no later than Monday, May 15, 1989.

3.2. The par amounts of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities anad are on the

list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposits from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loans associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extend required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount oif noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made completed on or before Monday, May 15, 1989. Payment in full must accompany tenders submitted by all others investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, May 11, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or befor Monday, May 15, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in "Treasury Direct" are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in "Treasury Direct" must be completed to show all the information required thereon, or the "Treasury Direct" account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-11616 Filed 5-10-89; 4:27 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 92
Monday, May 15, 1989

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

May 10, 1989.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–49), 5 U.S.C. 552B:

TIME: May 17, 1989, 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, 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, 896th Meeting—May 17, 1989, Regular Meeting (10:00 a.m.)

CAP–1.
Project No. 4656–004, Boise-Kuna Irrigation District, New York Irrigation District, Nampa and Meridian Irrigation District, Wilder Irrigation District, and Big Bend Irrigation District

CAP–2.
Project No. 2832–013, New York Irrigation District, Nampa and Meridian Irrigation District, Boise-Kuna Irrigation District, Wilder Irrigation District, and Big Bend Irrigation District

CAP–3.
Project No. 2216–007, Power Authority of the State of New York

CAP–4.
Project No. 6549–003, Conway Ranch Partnership

CAP–5.
Project No. 3671–031, Allegheny Number 5 Hydro Partners
Project No. 3494–031, Allegheny Number 6 Hydro Partners

CAP–6.
Project No. 6459–002, Southeastern Hydro-Power, Inc.

CAP–7.
Project No. 2179–003, Merced Irrigation District

CAP–8.
Project No. 2543–18, The Montana Power Company

CAP–9.
Project No. 10667–001, Youghiogheny Hydroelectric Authority

CAP–10.
Docket No. UL88–12–001, Central Vermont Public Service Corporation

CAP–11.
Docket No. UL88–16–001, Central Vermont Public Service Corporation

CAP–12.
Omitted

CAP–13.
Project No. 8612–000, George and Bonnie Arkoosh Western Hydropower Company, Inc.
Project No. 9967–000, Shorock Hydro, Inc.

CAP–14.
Project No. 516–067, South Carolina Electric & Gas Company

CAP–15.
Project No. 7392–003, L.F. Bush

CAP–16.
Docket No. EL88–29–000 (Project No. 10669), Pioneer Irrigation District and Settlers Irrigation District v. New York Irrigation District, Boise-Kuna Irrigation District, Wilder Irrigation District, Big Bend Irrigation District, Nampa and Meridian Irrigation District

CAP–17.
Docket No. ER89–110–000, Duke Power Company

CAP–18.
Docket No. ER89–142–000, Public Service Company of New Mexico

CAP–19.
Docket No. ER89–184–001, Consumers Power Company

CAP–20.
Docket No. ER89–125–001, Canal Electric Company

CAP–21.
Docket No. ER84–560–007, Union Electric Company

CAP–22.
Docket No. EL87–55–001, City of Holyoke Gas and Electric Department, City of Westfield Gas and Electric Light Department, Marblehead Municipal Light Department, Middleborough Municipal Gas and Electric Department, North Attleboro Electric Department, Peabody Municipal Light Plant, Shrewbury Electric Light Department, Templeton Municipal Light Plant, Town of Boylston Municipal Light Department, Town of Hudson Light and Power Department, Town of Littleton Municipal Light and Water Department, Town of Wakefield Municipal Light Department, and West Boyleston Municipal Lighting Plant v. Boston Edison Company

CAP–23.
Docket No. EL87–21–004, Yankee Atomic Electric Company
Docket No. EL87–22–004, Vermont Yankee Nuclear Power Corporation
Docket No. EL87–23–004, Connecticut Yankee Atomic Power Company

CAP–24.
Omitted

CAP–25.
Docket No. EL89–5–000, American Municipal Power-Ohio, Inc. v. Toledo Edison Company

CAP–26.
Docket No. EL89–19–000, City of Hamilton, Ohio v. Cincinnati Gas & Electric Company
Docket No. ER89–17–000, Cincinnati Gas & Electric Company

CAP–27.
Docket No. ER89–1–000, Wisconsin Power & Light Company

CAP–28.
Docket No. QF88–433–001, Midway-Sunset Cogeneration Company

CAP–29.
Docket No. EC88–24–00, Kentucky Utilities Company and Old Dominion Power Company

CAP–30.
Project Nos. 10601–000, 10602–000, and 106031–000, Wolverine Power Corporation

Consent Miscellaneous Agenda

CAM–1.
Docket No. RM82–25–003, Fees Applicable to Producer Matters Under the Natural Gas Act
Docket No. RM83–2–004, Fees Applicable to Natural Gas Pipeline Rate Matters
Docket No. RM82–30–004, Fees Applicable to the Natural Gas Policy Act
Docket No. RM82–35–002, Fees Applicable to General Activities
Docket No. RM82–31–008, Fees Applicable to Natural Gas Pipelines
Docket No. RM82–38–010, Fees Applicable to Electric Utilities, Cogenerators and Small Power Producers
Docket No. RM86–14–002, Revisions to the Purchased Gas Adjustments Regulations
Docket No. RM87–26–002, Filing Fees Under the Independent Offices Appropriations Act of 1952
Docket No. RM88–28–001, Revision of Filing Fees for Natural Gas Rate and Tariff Filings

CAM–2.
Docket No. GP87–20–000, ANR Pipeline Company v. Plains Resources, Inc.

Consent Gas Agenda

CAG–1.
Docket No. RP82–55–041, Transcontinental Gas Pipe Line Corporation

CAG–2.
Docket Nos. RP89–29–001 and RP99–228–008, Tennessee Gas Pipe Line Company

CAG–3.
Docket No. RP89–155–000, United Gas Pipe Line Company

CAG–4.
Docket Nos. RP86–159–000 and 001, Blue Dolphin Pipe Line Company

CAG–5.

Docket No. RP89–57–001, El Paso Natural Gas Company
CAG–6.
Docket No. RP89–60–000, Southwest Gas Storage Company
CAG–7.
Docket No. RP89–150–000, Texas Eastern Transmission Corporation
CAG–8.
Docket No. RP89–59–001, Transwestern Pipeline Company
CAG–9.
Docket No. RP89–98–002, Colorado Interstate Gas Company
CAG–10.
Docket No. TM89–3–21–000, Columbia Gas Transmission Corporation
CAG–11.
Docket No. TM89–4–28–000, Panhandle Eastern Pipe Line Company
CAG–12.
Docket No. TQ89–2–8–002, South Georgia Natural Gas Company
CAG–13.
Docket Nos. TA88–2–63–000, 001 and 002, Carnegie Natural Gas Company
CAG–14.
Docket No. RP89–142–000, Northern Natural Gas Company
CAG–15.
Docket Nos. RP89–90–001 and RP89–83–001, Superior Offshore Pipeline Company
CAG–16.
Omitted
CAG–17.
Docket No. TA89–1–17–000 and 001, Texas Eastern Transmission Corporation
CAG–18.
Docket No. RP86–119–013, Tennessee Gas Pipeline Company
CAG–19.
Docket No. RP89–45–004, ANR Pipeline Company
CAG–20.
Docket No. RP88–94–021, Natural Gas Pipeline Company of America
CAG–21.
Docket No. RP88–94–022, Natural Gas Pipeline Company of America
CAG–22.
Docket No. RP88–184–009, El Paso Natural Gas Company
CAG–23.
Docket Nos. TA81–1–21–031 and RP87–55–012, Columbia Gas Transmission Corporation
CAG–24.
Docket No. CP89–391–001, Transcontinental Gas Pipe Line Company
CAG–25.
Docket Nos. RP85–209–021, RP86–93–006, RP86–158–009, RP86–246–003, RP87–34–005, RP88–8–009, TC88–6–007, RP88–27–013, RP88–264–003, RP88–92–017, RP88–263–010, RP88–265–004, RP84–42–005, CP86–6–004, CP88–440–001, CP87–527–000, CP88–329–001, CP88–478–001 and IN86–5–011, United Gas Pipe Line Company
CAG–26.
Docket Nos. RP83–137–029 and RP985–31–003, Transcontinental Gas Pipe Line Corporation
CAG–27.
Docket No. RP89–34–001, Williston Basin Interstate Pipeline Company
CAG–28.
Docket Nos. RP88–187–016 and 017, Columbia Gas Transmission Corporation
CAG–29.
Docket Nos. RP89–11–003 and RP88–239–005, Trunkline Gas Company
CAG–30.
Docket Nos. RP88–198–008 and RP89–59–002, Transwestern Pipeline Company
CAG–31.
Docket No. RP89–98–001, Colordao Interstate Gas Company
CAG–32.
Docket No. TM89–3–28–001, Panhandle Eastern Pipe Line Company
CAG–33.
Docket Nos. TQ89–1–46–017, RP86–165–011 and RP86–166–011, Kentucky-West Virginia Gas Company
CAG–34.
Docket No. RP87–26–000, Tennessee Gas Pipeline Company
CAG–35.
Docket Nos. RP82–124–010, RP81–53–007, RP81–55–036 and RP85–149–013, East Tennessee Natural Gas Company
CAG–36.
Omitted
CAG–37.
Docket Nos. RP86–33–000 and RP86–96–000, Midwestern Gas Transmission Company
CAG–38.
Docket Nos. RP86–119–007, RP89–30–000, TA84–2–9–009 and TA85–1–9–006, Tennessee Gas Pipe Line Company
CAG–39.
Docket Nos. RP88–42–000 and RP88–42–004, Pacific Offshore Pipeline Company
CAG–40.
Docket Nos. RP88–228–012, RP88–249–002, RP89–4–003, RP89–29–003, CP84–441–030 and CP80–65–064, Tennessee Gas Pipeline Company
CAG–41.
Omitted
CAG–42.
Docket No. ST89–1460–000, Red River Pipeline
CAG–43.
Docket Nos. ST89–1505–000 and ST89–15605–000, BP Gas Transmission Company
CAG–44.
Docket No. ST89–1501–000, Delhi Gas Pipeline Corporation
CAG–45.
Docket No. ST88–4279–000, Cranberry Pipeline Corporation
CAG–46.
Docket No. CI85–673–006, LaSER Marketing Company
Docket No. CI89–7–002, Pacific Atlantic Marketing, Inc.
Docket No. CI87–547–004, Enron Gas Marketing, Inc.
Docket Nos. CI87–786–003 and CI87–825–003, Val Gas L.P. and V.H.C. Gas Systems L.P.
CAG–47.
Docket No. CI85–513–011, Tenngasco Gas Supply Company v. Southland Royalty Company
Docket No. CI88–605–001, People of the State of California and the Public Utilities Commission of the State of California, Pacific Gas and Electric Company, Southern California Gas Company and Southwest Gas Corporation v. El Paso Natural Gas Company and Odessa Natural Gasoline Company
CAG–48.
Docket No. G–16679–000, Jupiter Corporation and Tennessee Gas Pipeline Company
CAG–49.
Omitted
CAG–50.
Docket Nos. CP89–97–000 and 001, PSI, Inc.
CAG–51.
Docket No. CP89–539–002, Great Lakes Gas Transmission Company
CAG–52.
Docket No. CP87–474–005, Great Lakes Gas Transmission Company
CAG–53.
Docket No. CP84–348–007, Mississippi River Transmission Corporation
CAG–54.
Docket No. CP89–3–002, Panhandle Eastern Pipe Line Company
CAG–55.
Docket No. CP88–475–001, El Paso Natural Gas Company
CAG–56.
Docket No. CP87–107–001, Midwestern Gas Transmission Company
CAG–57.
Docket No. CP88–137–001, ANR Pipeline Company
CAG–58.
Docket No. RP88–13–003, James River II, Inc. v. Northwest Pipeline Corporation
Docket No. CP88–111–003, Northwest Pipeline Corporation
Docket No. CP87–328–004, Northwest Pipeline Corporation
CAG–59.
Docket No. CP87–395–001, Consumers Power Company
CAG–60.
Docket Nos. CP88–490–001 and CP88–548–001, Panhandle Eastern Pipe Line Company
CAG–61.
Docket No. CP89–272–001, Panhandle Eastern Pipe Line Company
CAG–62.
Docket No. CP61–92–019, El Paso Natural Gas Company
Docket No. CP61–139–016, Northern Natural Gas Company, Division of Enron Corp.
CAG–63.
Docket Nos. CP87–75–000 and 001, Tennessee Gas Pipeline Company
CAG–64.
Docket Nos. CP87–358–000 and 001, Tennessee Gas Pipeline Company
Docket Nos. CP87–428–000 and 001, CNG Transmission Corporation
CAG–65.
Docket No. CP89–341–000, Midwestern Gas Transmission Company
CAG–66.
Docket No. CP88–287–000, Williams Natural Gas Company
CAG–67.
Docket Nos. CP88–167–000 and 001, Algonquin Gas Transmission Company

CAG–68.
Docket No. CP62–82–000, Williams Natural Gas Company
CAG–69.
Docket No. CP88–34–000, Trunkline Gas Company
CAG–70.
Docket Nos. CP89–23–000, CP89–64–000 and CP89–67–000, Williams Natural Gas Company
CAG–71.
Docket No. CP89–302–000, Williston Basin Interstate Pipeline Company
CAG–72.
Docket No. CP88–482–000, Panhandle Eastern Pipe Line Company
CAG–73.
Docket Nos. RP88–94–019 and RP88–94–020, Natural Gas Pipeline Company of America
CAG–74.
Docket Nos. CP68–179–013, CP89–555–000 and CP89–556–000, Florida Gas Transmission Company

I. Licensed Project Matters

P–1.
Omitted

II. Electric Rate Matters

ER–1.
Docket Nos. EC88–2–000 and 003, Utah Power & Light Company, PacifiCorp and PC/UP&L Merging Corporation. Order on merger.

Miscellaneous Agenda

M–1
RM87–33–000, Hydroelectric Relicensing Regulations Under the Federal Power Act. Final Rule.
M–2.
Reserved
M–3.
Reserved

I. Pipeline Rates Matters

RP–1.
Docket No. RP89–75–000, Black Marlin Pipeline Company
Docket No. RP88–131–000, Carnegie Natural Gas Company
Docket No. RP89–86–000, Chandeleur Pipeline Company
Docket No. RP88–211–000, CNG Transmission Corporation
Docket No. RP88–44–000, El Paso Natural Gas Company
Docket No. RP89–50–000, Florida Gas Transmission Company
Docket No. RP89–37–000, High Island Offshore System
Docket No. RP89–65–000, Inland Gas Company, Inc.
Docket Nos. RP86–52–000, RP89–146–000 and RP89–61–000, Kentucky West Virginia Gas Company
Docket Nos. RP87–86–005, RP86–11–002, RP85–11–019 (Phase II), RP89–110–000 and RP89–111–000, KN Energy, Inc.
Docket Nos. RP89–35–000 and RP89–36–000, Midwestern Gas Transmission Company
Docket No. RP89–49–000, National Fuel Gas Supply Corporation
Docket No. RP89–28–000 Northern Border Pipeline Company
Docket No. RP88–259–000, Northern Natural Gas Company
Docket No. RP88–47–000, Northwestern Pipeline Company
Docket No. RP88–262–000, Panhandle Eastern Pipe Line Company
Docket No. RP88–227–000, Pauite Pipeline Company
Docket No. RP89–73–000, Pelican Interstate Gas System
Docket No. RP88–93–000, Questar Pipeline Company
Docket No. RP88–181–000, Sea Robin Pipeline Company
Docket No. RP88–228–000, Tennessee Gas Pipeline Company
Docket No. RP88–67–000, Texas Eastern Gas Transmission Corporation
Docket No. 87–7–012, Transcontinental Gas Pipe Line Corporation
Docket No. RP89–48–000, Transwestern Pipeline Company
Docket No. RP88–180–000, Trunkline Gas Company
Docket No. RP89–38–000, U–T Offshore System
Docket No. RP88–256–000, West Texas Gas, Inc.
Docket No. RP89–67–000, West Texas Gathering Company
Docket No. RP87–33–000, Williams Natural Gas Company
Docket Nos. RP88–197–000, RP89–34–000 and RP88–236–000, Williston Basin Interstate Pipeline Company. Order on rate design.
RP–2.
Docket Nos. CP89–470–000, CP88–522–002, CP88–522–000 and CP88–522–004, Tennessee Gas Pipeline Company. Order concerning sales service restructuring, gas inventory charge, and standby service.

II. Producer Matters

CI–1.
Reserved

III. Pipeline Certificate Matters

CP–1.
Omitted
CP–2.
Omitted
CP–3.
Omitted

Lois D. Cashell,
Secretary.

[FR Doc. 89–11758 Filed 5–11–89; 3:59 pm]
BILLING CODE 6717–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 10, 1989.

TIME AND DATE: 10:00 a.m., Wednesday, May 17, 1989.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Possible revisions of and additions to present Commission Procedural Rules 73, 75, and 80–84; 29 CFR 2700.73, 2700.75, and 2700.80–2700.84.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629 / (202) 566–2673 for TDD Relay.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 89–11670 Filed 5–11–89; 11:25 am]
BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Thursday, May 18, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. 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: May 10, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89–11633 Filed 5–11–89; 11:24 am]
BILLING CODE 6210–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [54 FR 18978 May 3, 1989].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, May 1, 1989.

CHANGES IN THE MEETING: Additional items.

The following additional items were considered at a closed meeting on Tuesday, May 9, 1989, at 2:30 p.m.

Formal orders of investigation.
Litigation matter.

Commissioner Cox, as duty officer, determined that Commission business required the above changes.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postposed, please contact: Max Berueffy at (202) 272–2400.

Jonathan G. Katz,

Secretary.

May 9, 1989.

[FR Doc. 89–11722 Filed 5–11–89; 2:04 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 54, No. 92
Monday, May 15, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. 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 COMMERCE

International Trade Administration

University of Pennsylvania et al.; Consolidated Decision on Applications for Duty-free Entry of Scientific Instruments

Correction

In notice document 89-9906 beginning on page 17805 in the issue of Tuesday, April 25, 1989, make the following correction:

On page 17806, in the 1st column, in the second complete paragraph, in the 10th line, "cable" should read "capable".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[General Docket 82-243; FCC 89-45]

Service and Technical Rules for Government and Non-Government Fixed Service Usage of the Frequency Bands 932-935 MHz and 941-944 MHz

Correction

In rule document 89-5124 beginning on page 10326 in the issue of Monday, March 13, 1989, make the following corrections:

§ 22.27 [Corrected]

1. On page 10328, in the third column, in § 22.27(b)(2), in the second line "932-932.5/ 941.5" should read "932-932.5/941-941.5".

§ 22.31 [Corrected]

2. On the same page, in the same column, the heading for § 22.31, "Mutually executive applications " should read "Mutually exclusive applications".

3. On page 10329, in the first column in § 22.31(g), in the eighth line "therefore" should read "thereafter".

BILLING CODE 1505-01-D

FEDERAL TRADE COMMISSION

Care Labeling Rule; Information Collection Requirement

Correction

In notice document 89-10585 appearing on page 18939 in the issue of Wednesday, May 3, 1989, make the following correction:

In the second column, under **DATES**, in the second and third lines, "May 3, 1989" should have read "June 2, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 872 and 892

[Docket Nos. 86N-0007 and 86N-0014]

Dental and Radiology Devices; Exemptions From Premarket Notification; Withdrawal

Correction

In proposed rule document 89-8054 appearing on page 13833 in the issue of Wednesday, April 5, 1989, make the following correction:

In the first column, under **SUMMARY**, in the 12th line, "denial" should read "dental".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-930-09-4212-13; MTM 77153]

Conveyance and Order Providing for Opening of Public Land in Carter County, Montana

Correction

In notice document 89-9566 appearing on page 16168 in the issue of Friday, April 21, 1989, make the following correction:

In the second column, the fifth line from the bottom should read "Sec. 29, S½NW¼, SE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-09-4214-12; I-2345]

Partial Termination of Classification for Multiple Use Management; Idaho

Correction

In notice document 89-8268 beginning on page 14168 in the issue of Friday, April 7, 1989, make the following corrections:

1. On page 14169, in the second column, under "T.15 S., R.15 E." the seventh (and last) line should be removed.

2. On the same page, in the same column, under "T.16 S., R.15 E.," the sixth line should read "Sec. 29, W½, NW¼SE¼, W½NE¼;".

BILLING CODE 1505-01-D

Federal Register

Monday
May 15, 1989

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Homeownership Counseling; Notice to Home Loan Creditors of Responsibilities Under Federal Law

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-89-1964; FR-2460]

Homeownership Counseling

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice to home loan creditors of responsibilities under Federal law.

SUMMARY: Section 169 of the Housing and Community Development Act of 1987 requires creditors of certain delinquent home loans to notify the homeowner of the availability of homeownership counseling offered by the creditor, as well as counseling services provided by HUD-approved counseling agencies and (where appropriate) the Department of Veterans' Affairs. To be eligible for this notification, the homeowner must occupy the property as a principal residence and must be delinquent in his or her loan payments due to an involuntary loss of income. The new requirement applies to all home loans, except those assisted by the Farmers Home Administration under Title V of the Housing Act of 1949. Thus, both conventional mortgages and loans, and those insured by HUD or guaranteed by the Department of Veterans' Affairs, are subject to section 169.

The purpose of this Notice is to inform creditors subject to section 169 of their responsibilities under the new law. The Notice also provides a list of HUD-approved counseling agencies, thereby giving creditors the means of fulfilling their obligation to notify mortgagors of HUD-approved counseling agencies.

FOR FURTHER INFORMATION CONTACT: Robert E. Falkenstein, Jr., Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-6672. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 106 of the Housing and Urban Development Act of 1968 authorizes HUD to provide, or to contract with public or private agencies to provide, counseling to tenants and homeowners of dwellings insured under the National Housing Act to help them meet the responsibilities of tenancy or homeownership. Counseling services provided by HUD-approved counseling agencies and partially funded with grants from HUD under section 106 are currently available to homeowners with HUD-insured mortgages. (The existing housing counseling program is administered under HUD Housing Counseling Handbook No. 7610.1 Rev., January 1976. Under HUD's requirements, creditors of all HUD-insured single-family mortgages are made aware of HUD-approved counseling agencies and other local community agencies to which a delinquent borrower can be referred.)

Section 169 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) amended section 106 of the 1968 Act to expand the scope of HUD's existing homeownership counseling program beyond its traditional relationship to the FHA mortgage insurance program. As in the past, grants are authorized to nonprofit and public organizations experienced in the provision of homeownership counseling, to partially reimburse these organizations for providing counseling to homeowners. "Eligible homeowners", however, are now defined to include not only FHA homeowners, but also most other single-family homeowners.

Who Is Entitled to Notice From the Creditor?

A homeowner is entitled to the notice under section 169 if—

1. The home loan is secured by a one-family dwelling that is the principal residence of the homeowner.

"One-family dwelling" is a dwelling that may be divided into a maximum of four (4) separate dwelling units. So long as a mortgagor makes one of the units his or her principal residence, that mortgagor is entitled to receive notice of local HUD-approved homeownership counseling agencies. A "one-family dwelling" also includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"Principal residence" means a residential property occupied by the mortgagor as his or her primary residence more than half the time during the year immediately preceding any notice of mortgage delinquency, or (if the mortgage is less than a year old) a residential property occupied by the mortgagor as his or her primary residence more than half of the time since the morgage debt was incurred.

2. The homeowner is, or is expected to be, unable to make payments, to correct the home loan delinquency within a reasonable time, or to resume full home loan payments, because of—

a. A reduction in the homeowner's income caused by an involuntary loss of, or reduction in, the homeowner's employment, or by loss or reduction of income from self-employment or other occupational pursuits; or

b. Any similar loss or reduction experienced by any other person who contributes to the homeowner's income.

Creditors may find it more convenient and less costly to provide the notice required by section 169 to all delinquent mortgagors, rather than to those that they first determine to meet the loss/reduction of income standard discussed above. This would not present a problem under section 169. Regarding HUD-insured mortgages, it should be noted that the requirements of section 169 are in addition to, and do not supersede, HUD notice requirements.

Finally, the statute specifically excludes from eligibility for counseling, under section 169, homeowners with home loans assisted under title V of the Housing Act of 1949. (Title V of the Housing Act of 1949 provides loans and mortgage insurance services for rural housing and is administered by the Farmers Home Administration.)

Nature of the Notice Required

The creditor of a delinquent home loan that is subject to section 169 of the 1987 Act has two duties with respect to the delinquent homeowner:

1. The creditor must notify the homeowner of the availability of any homeownership counseling offered by the creditor.

2. Whether or not the creditor offers homeownership counseling services, the creditor must notify the homeowner of the availability of one of the following:

A. Counseling provided by HUD-approved organizations which are experienced in the provision of homeownership counseling.

The Department has determined that homeownership counseling information is best provided by publishing a current list of HUD-approved housing counseling agencies in the **Federal Register** every quarter. Toward this end, this Notice includes a comprehensive listing of HUD-approved housing counseling agencies, arranged by State, that can conveniently be provided by the creditor. HUD will publish periodic updatings of this list as new counseling services are approved.

B. Homeownership counseling provided by the Department of Veterans' Affairs, in the case of loans insured or guaranteed under Chapter 37 of Title 38, United States Code.

HUD suggests that creditors of loans subject to the statute would be well-advised to inform eligible homeowners with VA guaranteed mortgages of counseling services available through the Department of Veteran's Affairs. The requirements of the statute can be met, however, by providing the homeowner with the means of contacting HUD-approved homeownership counseling agencies that are geographically proximate to the homeowner's location—whether or not these agencies specialize in counseling VA mortgagors.

Who Is a Creditor?

Under section 169, a "creditor" is a person or entity that is servicing a home loan, either on its own behalf or on behalf of another person or entity. Thus, it is the creditor's servicing functions that bring it within section 169: the actual ownership of the mortgage or loan is irrelevant. It should also be noted that the definition of "creditor" is broad enough to cover personally financed deals, where, for example, the "lender" holds a purchase money mortgage.

When Is a Home Loan Delinquent?

The statute does not provide a definition of when a loan is delinquent. Delinquency is the triggering event giving rise to the statutory obligation on the creditor to notify an eligible homeowner of the availability of counseling. HUD advises that, while there is no fixed point after late payment or default at which the statute requires this notice, it is quite clear that the purpose of the notice relating to counseling services is to assist the eligible homeowner in avoiding the consequences of delinquency—the loss of his or her property. Accordingly, to be certain of compliance with the notice requirements of the statute, notice to the homeowner of the availability of counseling services must be sufficiently in advance of any adverse action taken as a result of default to afford the homeowner time to take advantage of the possible assistance that counseling services can provide. HUD recommends that notice of counseling services be provided at the earliest point that a creditor, as part of normal business practice, communicates the fact of the delinquent status of the homeowner's account to the homeowner.

What Are the Penalties for Violating the Notice Requirements?

The 1987 Act's amendments do not provide for HUD enforcement of the notice requirements associated with counseling. HUD's role is to afford access to the directory of approved housing counseling agencies so that homeowners may realize the benefits of counseling and, possibly, avoid foreclosure action. HUD regards the obligations imposed on creditors by the new law as self-executing; that is, the law speaks directly to creditors, imposing an obligation upon any and all creditors to notify any eligible homeowner on the subject of homeownership counseling, whenever a home loan is "delinquent".

HUD believes, however, that the new law creates a legal duty, enforceable by homeowners, and that noncompliance with the law's requirements could be an actionable event that could affect a mortgagee's ability to carry out foreclosure in a timely manner. Section 169 may also be subject to enforcement under authorities administered by State and other Federal agencies. Mortgagees subject to section 169 may wish to pursue this point with the agencies involved (if any).

HUD-approved mortagees continue to be subject to HUD program requirements associated with counseling of homeowners with HUD mortgages, but the notice requirements of the new law also apply to HUD-approved mortgagees, as they apply virtually to all mortgagees. The advice provided in this Notice is fully applicable to HUD-approved mortgagees. Noncompliance by HUD-approved mortgagees could also be grounds for an administrative action by HUD's Mortgagee Review Board under 24 CFR 25.9(j).

Termination of Section 169's Requirements

The provisions added to section 106 of the Housing and Urban Development Act of 1968 that are described in this Notice terminate, under the statute's own terms, on September 30, 1989. HUD suggests however, that creditors wait for actual notice of the termination of the statute before regarding September 30, 1989 as the date on which the obligations here described cease to exist. The possibility exists that the statute may be extended. If the requirements relating to notice to eligible homeowners of counseling services do expire, HUD will publish a Notice of that fact in the **Federal Register.**

The Directory of HUD-Approved Housing Counseling Agencies is published below. These agencies serve all mortgage borrowers, without regard to whether their loans are HUD-insured, and all mortgage lenders, without regard to whether the lender has HUD approval. HUD will publish periodic updates to this Directory in the **Federal Register.**

Finding of No Significant Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), the Regulatory Flexibility Act, the undersigned certifies that this notice does not have a significant economic impact on a substantial number of small entities. There is no significant economic impact on any individual entity, because it is measured in terms of the burden of requiring each lender to pass on homeownership counseling information to its borrowers. Since the duty to provide this counseling information is not limited, by the statute, to particular lenders based on their size, there is no basis in the statute for providing, in this notice, for a reduced burden on small lenders.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this notice will not involve the preemption of State law by Federal statute or regulation, and will not have substantial direct effects on States or their political subdivisions, or on the relationship or distribution of power among the various levels of government. The notice, which requires creditors to inform their clients about available homeownership counseling, will not have a significant impact on the States, although a State or local government, when acting as a mortgage lender, would be subject to the rule's requirements.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will have no significant impact on family formation, maintenance, and general well-being. The notice, which is intended to improve access to homeownership counseling services, should help to decrease the number of families who lose their homes

as a result of home foreclosure. This result will benefit family formation, maintenance, and general well-being. Because the requirements of the notice are based on specific statutory directions, no further analysis under Executive Order 12606 is considered necessary.

Dated: May 1, 1989.

James E. Schoenberger,

General Deputy, Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

BILLING CODE 4210-27-M

U.S. Department of Housing and Urban Development
Office of Single Family Housing

Directory of HUD-Approved Housing Counseling Agencies

MAY 1, 1989

INTRODUCTION

As of May 1, 1989, there are a total of 469 HUD-approved housing counseling agencies throughout the country. Some agencies have satellite offices in other areas. Hence, the number of agency offices aggregate approximately 512.

There are no HUD-approved housing counseling agencies in the following areas:

Idaho

South Dakota

Virgin Islands

Where there are no HUD-approved housing counseling agencies, the HUD Field Offices in these areas or responsible for these areas will provide the housing counseling services to the extent that staff is available for this purpose.

HUD is approving agencies to provide Reverse Equity Mortgage Counseling only To date, there is one agency approved by HUD to provide Reverse Mortgage Equity Counseling: Senior Housing Inc., St. Paul, MN. Many more agencies will be approved shortly. Within twelve months, many HUD-approved housing counseling agencies will be trained to provide Reverse Equity Mortgage Counseling services.

NUMBER OF HUD-APPROVED HOUSING

COUNSELING AGENCIES

BY REGION

REGION	NO. OF AGENCIES
I	20
II	61
III	76
IV	92
V	76
VI	66
VII	22
VIII	18
IX	25
X	13
TOTAL	469

CONTENTS

NAME OF STATE	NUMBER OF HUD-APPROVED HOUSING COUNSELING AGENCIES	NO. OF AGENCY OFFICES	PAGE NUMBER
ALABAMA	11	11	1
ALASKA	2	2	2
ARIZONA	3	6	3
ARKANSAS	3	3	4
CALIFORNIA	18	18	5-6
COLORADO	8	8	7
CONNECTICUT	3	3	8
DELAWARE	4	4	9
DIST. OF COLUMBIA (WASH. DC)	5	5	10
FLORIDA	20	26	11-12
GEORGIA	12	13	13
GUAM	1	1	14
HAWAII	1	1	15
IDAHO	-0-	-0-	NONE
ILLINOIS	12	12	16
INDIANA	15	16	17-18
IOWA	4	4	19
KANSAS	4	4	20
KENTUCKY	9	9	21
LOUISIANA	16	19	22-23
MAINE	1	1	24
MARYLAND	17	17	25-26
MASSACHUSETTS	11	14	27
MICHIGAN	11	27	28-29

CONTENTS (CONTINUED)

NAME OF STATE	NUMBER OF HUD-APPROVED HOUSING COUNSELING AGENCIES	NO. OF AGENCY OFFICES	PAGE NUMBERS
MINNESOTA	7	8	30
MISSISSIPPI	2	2	31
MISSOURI	11	12	32
MONTANA	1	1	33
NEBRASKA	3	3	34
NEVADA	2	2	35
NEW HAMPSHIRE	1	1	36
NEW JERSEY	17	18	37-38
NEW MEXICO	1	2	39
NEW YORK	42	42	40-43
NORTH CAROLINA	9	9	44
NORTH DAKOTA	6	6	45
OHIO	25	26	46-47
OKLAHOMA	29	32	48-50
OREGON	7	7	51
PENNSYLVANIA	35	36	52-54
PUERTO RICO	2	2	55
RHODE ISLAND	3	3	56
SOUTH CAROLINA	12	12	57
SOUTH DAKOTA	-0-	-0-	NONE
TENNESSEE	17	17	58
TEXAS	17	17	59
UTAH	3	3	60

CONTENTS (CONTINUED)

NAME OF STATE	NUMBER OF HUD-APPROVED HOUSING COUNSELING AGENCIES	NO. OF AGENCY OFFICES	PAGE NUMBER
VERMONT	1	1	61
VIRGINIA	11	11	62
VIRGIN ISLANDS	-0-	-0-	NONE
WASHINGTON	4	4	63
WEST VIRGINIA	4	4	64
WISCONSIN	6	7	65
WYOMING	-0-	-0-	NONE
TOTALS	469	512	

STATE OF ALABAMA

HUD-APPROVED COUNSELING AGENCIES

Birmingham Urban League
1820 7th Avenue North
Post Office Box 11269
Birmingham, AL 35203
(205) 326-0162

Community Action Agency of Calhoun, Cleburne, and Cherokee Counties
Post Office Box 2223
Anniston, AL 36202
(205) 237-6731

Community Action Agency of Colbert, Lauderdale Counties
502 East College Street
Florence, AL 35630
(205) 383-4705

Community Action Agency of Huntsville, Madison Counties
2014 Medaris Road
Post Office Box 3975
Huntsville, AL 35810
(205) 851-9880

Community Service Programs of Tuscaloosa, Bibb, Hale and Greene Counties
601 17th Street
Tuscaloosa, AL 35401
(205) 758-4756

District Seven Human Resource Development Corporation
405 North Appletree Street
Post Office Box 1194
Dothan, AL 36303
(205) 794-8754

Housing Authority of City of Auburn
Post Office Box 1912
Booker Street
Auburn, AL 36830
(205) 821-0135

Housing Authority of City of Montgomery
1020 Bell Street
Montgomery, AL 36197
(205) 281-0659

Housing Authority of Birmingham District
1826 3rd Avenue South
Birmingham, AL 35233
(205) 324-0641

Mobile Housing Board
151 S. Clairborne Street
Post Office Box 1345
Mobile, AL 36633
(205) 434-2208

Morgan-Lawrence County Community Action Agency
701 Bank Street
Post Office Box 1210
Decatur, AL 35602
(205) 355-7843

STATE OF ALASKA

HUD-APPROVED COUNSELING AGENCIES

First Alaska Management Services
Suite 105
744 East 13th Street
Post Office Box 203063
Anchorage, AK 99520
(907) 285-3151

Consumer Credit Counseling Service
of Alaska
203 East Fourth Avenue
Anchorage, AK 99501
(907) 279-65091

STATE OF ARIZONA

HUD-APPROVED COUNSELING AGENCIES

City of Phoenix
Neighborhood Improvement & Housing
(Main Office, Non-counseling)
Human Resources Center
830 East Jefferson
Phoenix, AZ 85038
(602) 262-4421

City of Phoenix
Neighborhood Improvement & Housing
(Counseling Office)
Human Resources Center
1250 South 7th Avenue
Phoenix, AZ 85007
(602) 258-8011, ext. 221

Chicanos Por La Causa
1112 East Buckeye Road
Phoenix, AZ 85034
(602) 257-0700

Chicanos Por La Causa, Inc.
Suite 107
201 North Stone Avenue
Tucson, AZ 85701
(602) 882-0018

Tucson Family Debt Counselors
6135 East Grant Road
Tucson, AZ 85712
(602) 722-3328

Tucson Family Debt Counselors
Satellite Office
1625 South Third Avenue
Tucson, AZ 85713
(602) 882-9966

STATE OF ARKANSAS

HUD-APPROVED COUNSELING AGENCIES

Crawford-Sebastian Community
Development Council, Inc.
4331 Armour Street
Post Office Box 4069
Fort Smith, AR 72914
(501) 785-2303

Urban League of Arkansas
2200 South Main Street
Post Office Box 6368
Little Rock, AR 72216
(501) 372-3037

White River Regional Housing
Authority
Post Office Box 2656
Highway 25
Batesville, AR 72503-2656
(501) 793-2339

STATE OF CALIFORNIA

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: San Fernando Valley

Better Valley Services
14602 Kitteridge Street
Van Nuys, CA 91405
(818) 988-5059

SERVICE AREA: Los Angeles County

Consumer Credit Counselors of LA
1300 West Olympic Blvd., Suite 304
Los Angeles, CA 90015
(213) 381-5661 or 381-7601

SERVICE AREA: South Central LA

Community Care and Development Services
4156 Central Avenue
Los Angeles, CA 90011
(213) 234-1937 or 235-5164

SERVICE AREA: South Central LA

Westminister Neighborhood Association, Inc.
1776 East Century Boulevard
Los Angeles, CA 90002
(213) 564-6781

SERVICE AREA: Santa Barbara County

Housing Authority of the County of Santa Barbara
815 W. Ocean Avenue
Post Office Box 397
Lompoc, CA 93436
(805) 736-3423

SERVICE AREA: Richmond

City of Richmond
330 25th Street
Richmond, CA 94804
(415) 620-6827

SERVICE AREA: Oakland, Alameda

City of Oakland
Office of Community Development
1417 Clay Street, 3rd Floor
Oakland, CA 94612
(415) 273-3056

SERVICE AREA: San Leandro, Hayward, San Lorenzo, Union City, Castro Valley, Newark, Pleasanton, Fremont, Dublin

Eden Council for Hope & Opportunity
Echo Housing Assistance Center
770 A Street, Room 402
Hayward, CA 94541
(415) 581-9330

SERVICE AREA: Santa Clara County, Sunnyvale, Milipitas, Gilroy, San Jose

San Jose Housing Service Center
110 East Gish Road
San Jose, CA 95112
(408) 287-2467

SERVICE AREA: West Pittsburgh, Pittsburgh, Clayton, Oakley, Antioch, San Ramon, Napa, Brentwood, Alamo, Danville, Bryon, Napa County, Solano County, Fairfield, Vallejo, Vacaville

Pacific Community Services
Post Office Box 1397
501 Railroad Avenue
Pittsburgh, CA 94565
(415) 439-1056

STATE OF CALIFORNIA

SERVICE AREA: Santa Cruz County, Hollister

Housing Authority of the County
of Santa Cruz
640 Capitola Road
Santa Cruz, CA 95060
(408) 425-2471

Self Help Enterprises
Post Office Box 351
220 S. Bridge Street
Visalia, CA 93279-0351
(209) 733-9091

Stanislaus County Housing Authority
Post Office Box 3958
Modesto, CA 95352
(209) 523-0705

SERVICE AREA: San Bernardino County

Inland Mediation Board
420 North Lemon Avenue
Ontario, CA 91764
(714) 984-2254

SERVICE AREA: Orange County

Fair Housing Council of
Orange County
1440 East First Street, Suite 406
Santa Ana, CA 92701
(714) 835-0258

Neighborhood House Association
841 South 41st Street
San Diego, CA 92113
(619) 263-7761

Volunteers of America
510 Bercut Drive, Suite F
Sacramento, CA 95814
(916) 442-3691
or
Post Office Box 2786
Sacramento, CA 95812

Marzette and Associates
5524 Assembly Court, Suite 30
Sacramento, CA 95285
(916) 424-4311

STATE OF COLORADO

HUD-APPROVED COUNSELING AGENCIES

Adams County Housing Authority
7190 Colorado Boulevard, 6th Floor
Commerce City, CO 80022
(303) 289-6520

Boulder County Housing Authority
Post Office Box 471
2519 West 11th Avenue
Boulder, CO 80306
(303) 441-3929

Brothers Redevelopment, Inc.
2519 West 11th Avenue
Denver, CO 80204
(303) 573-5107

Catholic Social Services
302 Jefferson Street
Pueblo, CO 81004
(303) 544-4234

Department of Housing and
Community Service
City of Pueblo
City Hall Place
Pueblo, CO 81003
(303) 545-9870

Neighbor-to-Neighbor
424 Pine Street, Suite 102
Fort Collins, CO 80524
(303) 484-7498

Northeast Denver Housing Center
1735 Gaylord Street
Denver, CO 80218
(303) 377-3334

Consumer Credit Counseling Service
of The Pikes Peak Area, Inc.
3595 East Fountain Blvd., Suite AB2
Colorado Springs, CO 80910
(303) 596-6211

STATE OF CONNECTICUT

HUD-APPROVED COUNSELING AGENCIES

Northeastern Connecticut Community
Development Corporation
Post Office Box 156, Route 6
Danielson, CT 06329
(203) 774-7020

Urban League of Greater New Haven
1184 Chapel Street
New Haven, CT 06510
(203) 624-4168

Urban League of Greater Hartford,
Inc.
Housing Department
1229 Albany Avenue
Hartford, CT 06112
(203) 527-0147

STATE OF DELAWARE

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: New Castle County

Community Housing, Inc.
1300 Market St., Suite 600
Wilmington, DE 19801
(302) 652-3991

Neighborhood House, Inc.
Henrietta Johnson Community Center
601 New Castle Avenue
Wilmington, DE 19801
(302) 652-3977

SERVICE AREA: Middletown, Odessa, Townsend Counties, Middletown, Delaware

Middletown, Odessa and Townsend Community Action Agency, Inc.
23 West Main Street
Middletown, DE 19709
(302) 378-8748

SERVICE AREA: Sussex County, Georgetown

Sussex County Community Action Agency
310 North Railroad Avenue
Post Office Box 431
Georgetown, DE 19947
(302) 856-7761

DISTRICT OF COLUMBIA

WASHINGTON, DC

HUD-APPROVED COUNSELING AGENCIES

Far South East Community
Organization (FSECO)
2041 Martin Luther King Ave., S.E.
Suite M3
Washington, DC 20020
(202) 678-9003

Lutheran Social Services
Home Support Counseling Services
4929 Ames Street, NE
Washington, DC 20019
(202) 397-7537 or 232-6373

Lutheran Social Services
Main Office
5121 Colorado Avenue, N.W.
Washington, DC 20011
(202) 829-7640

Housing Counseling Services, Inc.
2430 Ontario Road
Washington, DC 20009
(202) 667-7006 or 667-7007

Ministries United to Support
Community Life Endeavors (MUSCLE)
25 K Street, N.E., Suite 200
Washington, DC 20001
(202) 371-0471

Near Northeast Community
Improvement Corp. (CIC)
1326 Florida Avenue, N.E.
Washington, DC 20002
(202) 399-6900

Peoples Involvement Corp. (PIC)
2146 Georgia Avenue, N.W.
Washington, DC 20001
(202) 797-3900

University Legal Services
324 H Street, N.E.
Washington, DC 20002
(202) 547-4747

STATE OF FLORIDA

HUD-APPROVED COUNSELING AGENCIES

Consumer Credit Counseling Services
of South Florida, Inc.
1190 N.E. 125 Street, Suite 11
North Miami, FL 33161
(305) 893-5225

Consumer Credit Counseling Services
of South Florida, Inc.
11255 S.W. 211th Street, Suite 100
Miami, FL 33189
(305) 233-2480

Consumer Credit Counseling Services
of South Florida, Inc.
500 S.E. 17th Street, Suite 222
Ft. Lauderdale, FL 33316
(305) 765-0502

Urban League of Palm Beach
County, Inc.
1700 North Australian Avenue
West Palm Beach, FL 33407
(305) 833-4260

SERVICE AREA: Indian River and St. Lucie Counties

Consumer Credit Counseling Service
of Palm Beach County, Inc.
224 Datura Street, Suite 205
West Palm Beach, FL 33401
(305) 655-0885

City of Tampa
Community Redevelopment Agency
1310 East 9th Avenue
Tampa, FL 33605
(813) 223-3146

Broward County Housing Authority
1773 North State Road #7
Lauderhill, FL 33313
(305) 739-1114

Hillsborough County Housing
Assistance Department
9350 Bay Plaza Boulevard, Suite 109
Tampa, FL 33619
(813) 623-2881

SERVICE AREA: Lake County

Lake Community Development, Inc.
927 East Alfred Street
Post Office Box 884
Tavares, FL 32778
(904) 343-0171

SERVICE AREA: Manatee County

Manatee Opportunity Council, Inc.
236 9th Avenue, West
Bradenton, FL 33505
(813) 747-7521

SERVICE AREA: Orange County

Metropolitan Orlando Urban League,
Inc.
934 North Magnolia Ave., Suite 333
Orlando, FL 32803
(407) 841-7654

SERVICE AREA: Orange and Oscola Counties

Orange County Department of
Community Affairs
22 Lake Beauty Drive
Post Office Box 2243
Orlando, FL 32802
(407) 420-3131

Consumer Credit Counseling Services
of Central Florida, Inc.
1900 N. Mills Ave., Suite 5
Orlando, FL 32803
(407) 896-2463/2465

STATE OF FLORIDA

Consumer Credit Counseling Services
of Palm Beach County, Inc.
West Boca Community Center
9400 Pond Wood Road
Boca Raton, FL 33432
(305) 368-8415

Consumer Credit Counseling Services
of Central Florida, Inc.
377 Maitland Avenue, Suite 104
Altamonte Springs, FL 32701
(305) 339-6111

Consumer Credit Counseling Services
of Central Florida
1122 Pelican Bay Drive
Daytona Beach, FL 32019
(904) 761-5414

SERVICE AREA: Pinellas County

Consumer Credit Counseling Services
of Pinellas County, Inc.
801 W. Bay Drive, Suite 313
Largo, FL 33540
(813) 585-0099

Urban League Boca Outreach Office
500 East Spanish River Boulevard
Boca Raton, FL 33432
(305) 391-2238

Boynton Beach Community
Action Office
909 N.E. 3rd Street
Boynton Beach, FL 33435
(305) 732-1020 or 732-1239

Jupiter Community Action Council
6415 Indian Town Road
Jupiter, FL 33458
(305) 747-2008

United Way of Martin County
851 Johnston Avenue
Stuart, FL 33497
(305) 283-4800

SERVICE AREA: Polk County

Agriculture and Labor Program, Inc.
7303 Lynchburg Road
Post Office Box 3126
Winter Haven, FL 33881
(813) 956-3491

SERVICE AREA: Leon County

Tallahassee Urban League
Comprehensive Housing
Counseling Program
923 Old Bainbridge Road
Tallahassee, FL 32301
(904) 222-6111

SERVICE AREA: Duval County

Jacksonville Urban League
829 Pearl Street
Jacksonville, FL 32202
(904) 356-8336

SERVICE AREA: Escambia and
Santa Rosa Counties

Consumer Credit Counseling Service
of West Florida, Inc.
3 West Garden Street
Pensacola, FL 32594
(904) 434-0268

Consumer Credit Counseling Services
of Palm Beach County, Inc.
Sun Point Savings Bank
130 South Entrada Avenue
Port St. Lucie, FL 33452
(305) 878-8000

STATE OF GEORGIA

HUD-APPROVED COUNSELING AGENCIES

The Atlanta Urban League, Inc.
75 Piedmont Avenue, N.E., Suite 310
Atlanta, GA 30303
(404) 659-2616 or 659-1150

Consumer Credit Counseling Services
100 Edgewood Ave., NE, Suite 810
Atlanta, GA 30303
(404) 875-8396

Dekalb-Fulton Housing Counseling Center
3471 Memorial Drive
Decatur, GA 30032
(404) 288-0923

Dekalb-Fulton Housing Counseling Center
Rich's Office Building, Room 250
42 Spring Street, SW
Atlanta, GA 30303
(404) 588-3623

Metro Fair Housing Services, Inc.
1083 Austin Avenue, N.E.
Atlanta, GA 30307
(404) 221-0147

Metro Columbus Urban League, Inc.
806 First Avenue
Columbus, GA 31901
(404) 323-3687

City of Athens
Dept. of Housing & Community Dev.
155 East Washington Street
Athens, GA 30601
(404) 353-8117

SERVICE AREA: Bryan, Camden, Glynn, Liberty, McIntosh

Coastal Georgia Area Community Action Agency
2801 Fourth Street
Post Office Box 1814
Brunswick, GA 31520
(912) 264-3281

SERVICE AREA: Savannah

Savannah-Chatham County, Inc.
618 West Anderson Street
Post Office Box 1353
Savannah, GA 31402
(912) 238-2960

SERVICE AREA: Ben Hill, Berrien, Brook, Cook, Echols, Irwin, Lanier, Lowndes, Tift, Turner

Coastal Plain Area Economic Opportunity, Inc.
200 North Lee Street
Post Office Box 1645
Valdosta, GA 31601
(912) 244-7860

Community Action for Improvement, Inc.
301 Broome Street
Post Office Box 1307
La Grange, GA 30241

Albany Comprehensive Counseling Inc.
630 S. Slappy Boulevard, Suite 2
Albany, GA 31707
(912) 436-0551

SERVICE AREA: Bleckly, Dodge, Laurens, Montgomery, Pulaski, Telefair, Truetlen, Wilcox

Heart of Georgia Community Agency Council, Inc.
Post Office Box 398
Eastman, GA 31203
(912) 374-4301

GUAM

HUD-APPROVED COUNSELING AGENCIES

(Ghura Guam Housing and
Renewal Authority)
P. O. Box CS
Agana, Guam 96910
(671) 477-9851-4

HAWAII

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: County of Maui
Hale Mahaolu, Inc.
200 Hina Avenue
Kahului, HI 96732
(808) 877-6242

STATE OF ILLINOIS

HUD-APPROVED COUNSELING AGENCIES

Chicago Urban League
4510 Michigan Avenue
Chicago, IL 60653
(312) 285-5800

City of Chicago
Department of Housing
318 Michigan - First Floor
Chicago, IL 60604
(312) 922-7922, Ext. 444
(11 offices)

Community and Economic Development
Association of Cook County
224 North Desplaines
Chicago, IL 60607
(312) 207-5444
(9 offices)

Chicago Roseland Coalition for
Community Control
43 East 110th Street
Chicago, IL 60628
(312) 264-3500

Madison County Urban League Inc.
210 William Street
Alton, IL 62002
(618) 463-1906

Community Services Council
241 Canterbury Lane
Bollingbrook, IL 60439
(312) 759-9494

Spanish Coalition For Housing
2150 West North Avenue
Chicago, IL 60647
(312) 342-7575

Springfield Human Relations
Commission
227 S. 7th Street, Suite 204
Springfield, IL 62701
(217) 789-2271

Tri-County (Peoria) Urban
League, Inc.
317 South MacArthur Highway
Peoria, IL 61605
(309) 673-7474

Unitedway Services, Inc.
288 South Main Street, 5th Floor
Rockford, IL 61101-1205
(815) 968-5400

Lake County Community
Action Project
102-106 South Sheridan Road
Waukegan, IL 60085
(312) 249-4330

Neighbor Housing Support
Central Office
318 South Michigan Avenue
Chicago, IL 60604
(312) 922-7922
(10 site offices)

STATE OF INDIANA

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: Anderson, Madison and Muncie Counties

Anderson Housing Authority
120 East 8th -- City Hall
Post Office Box 2100
Anderson, IN 46018
(317) 646-9652

SERVICE AREA: Bloomington, Plus 2-Mile Fringe

City of Bloomington
Redevelopment Department
Box 100 Municipal Building
Bloomington, IN 47401
(812) 339-2261, Ext. 79

SERVICE AREA: Elknart City - Elkhart County, Plus Nearby Counties Without Counseling Agencies

Department of Community Development
City of Elkhart
229 South Second Street
Elkhart, IN 46516
(219) 294-5471

SERVICE AREA: Evansville, Vanderburgh County

HOPE of Evansville, Inc.
216 Washington Avenue
Evansville, IN 47713
(812) 423-3169

SERVICE AREA: Ft. Wayne, Allen County

Fort Wayne-Allen County
Housing Authority
One Main Street
Ft. Wayne, IN 46802
(219) 427-1145, Ext. 4633

SERVICE AREA: Gary, Lake Station, Lake County - Outside Gary, Hammond, East Chicago

Urban League of Northwest
Indiana, Inc.
3101 Broadway
Gary, IN 46409
(219) 887-9621

SERVICE AREA: Gary

Mayor's Office of Housing
Conservation
824 Broadway
Gary, IN 46402
(219) 883-3102

SERVICE AREA: Hammond

Hammond Housing Authority
(Headquarters)
7329 Columbia Circle West
Hammond, IN 46324
(219) 853-6331

Hammond Housing Authority
(Branch Office)
4923 Hohman Avenue
Hammond, IN 46320
(219) 853-6356

SERVICE AREA: Indianapolis'

Housing Services
Division of Economic and
Housing Development (DEHD)
Indianapolis Department of
Metropolitan Development (DMD)
148 East Market Street, Suite 6
Indianapolis, IN 46204
(317) 633-3480

STATE OF INDIANA

SERVICE AREA: Knox County

Knox County Housing Authority
Rural Route 1, Box 512-C-5
Bicknell, IN 47512
(812) 882-0220

SERVICE AREA: Mitchell Counties: Lawrence, Orange, Washington, and Martin

Hoosier Uplands Economic Development Corporation
521 West Main Street
Mitchell, IN 47446
(812) 849-4457

SERVICE AREA: South Bend, St. Joseph County

Urban League of South Bend and St. Joseph County, Inc.
1708 South High
South Bend, IN 46613
(219) 287-7261

SERVICE AREA: Lake County - Outside Gary, Hammond, East Chicago

Lake County Community Development Department
2293 North Main
Crown Point, IN 46307
(219) 738-2020, Ext. 541

SERVICE AREA: South Bend

Housing Authority of the City of South Bend, Indiana
Post Office Box 11057
501 South Scott
South Bend, IN 46634-0057
(219) 284-9346

Housing Authority of the City of Elkhart
501 W. Indiana Avenue
Elkhart, IN 46516-2505
(219) 295-8392

STATE OF IOWA

HUD-APPROVED COUNSELING AGENCIES

Services For Homeowners and
Renters Project
East 1st & Des Moines Street
Des Moines, IA 50307
(515) 283-4575

Hawkeye Area Community Action
320 - 11th Avenue, SE
Post Office Box 799
Cedar Rapids, IA 52406
(319) 366-7631

A.I.D. Center
206 6th Street
Sioux City, IA 51101
(712) 252-1861

Department of Community Development
Housing Services Division
226 West 4th Street
Davenport, IA 52801
(319) 326-7748

STATE OF KANSAS

HUD-APPROVED COUNSELING AGENCIES

Economic Opportunity Foundation
1542 Minnesota Avenue
Kansas City, KS 66102
(913) 371-7800

Shawnee County Community
Assistance and Action, Inc.
603 Topeka Avenue
Topeka, KS 66603
(913) 235-9561

Urban League of Wichita, Inc.
1405 N. Minneapolis Street
Wichita, KS 67214
(316) 262-2463

Topeka Housing Information Center
1195 S.W. Buchanan, Suite 203
Topeka, KS 66604-1183
(913) 234-0217

STATE OF KENTUCKY

HUD-APPROVED HOUSING COUNSELING

SERVICE AREA: Jefferson, Trimble, Henry, Oldham, Shelby, Spencer, Bullitt and Owen Counties

ACCEPT, Inc. (Red Cross)
508 East Chestnut Street
Louisville, KY 40202
(502) 589-4450, Ext. 313

SERVICE AREA: Davies County

Audubon Area Community Services, Inc.
403 West Third Street
Post Office Box 630
Owensboro, KY 42302
(502) 686-1631

SERVICE AREA: Campbell County

Brighton Center, Inc.
7th and Park Street
Post Office Box 325
Newport, KY 41072
(606) 491-8303

SERVICE AREA: Taylor County

Campbellsville Housing and Redevelopment Authority
400 Ingram Avenue
Post Office Box 459
Campbellsville, KY 42718
(502) 465-3576

SERVICE AREA: Bell County

Interfaith of Bell County
Post Office Box 625, Tennessee Ave.
Pineville, KY 40977
(606) 337-5519

SERVICE AREA: City of Louisville

Louisville Urban League
2600 W. Broadway, 3rd Level
Louisville, KY 40211-1333
(502) 776-4622

SERVICE AREA: Kenton County

Northern Kentucky Community Center
824 Greenup Street
Post Office Box 2030
Covington, KY 41011
(606) 431-5700

SERVICE AREA: Christian, Todd, Muhlenberg and Trigg Counties

Pennyrile Allied Community Services, Inc.
708 South Liberty Street
Post Office Box 532
Hopkinsville, KY 42240
(502) 886-6341

B R Comprehensive Counseling Service
835 W. Jefferson Street, Suite 207-A
Louisville, KY 40202
(502) 584-4229

STATE OF LOUISIANA

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: Acadia, Vermilion, and Jefferson Davis Parishes

Allen Action Agency, Inc.
519 Fifth Street
Oberlin, LA 70655
(318) 639-4348

SERVICE AREA: Orleans Parish

Central City Housing Development Corporation
2020 Jackson Avenue
New Orleans, LA 70113
(504) 522-4273

SERVICE AREA: Orleans and St. Bernard Parishes

Desire Community Housing Corp.
3251 St. Ferdinand Street
New Orleans, LA 70126
(504) 944-6057

SERVICE AREA: Calcasieu Parish

Housing Authority of the City of Lake Charles
661 Dixy Drive
Lake Charles, LA 70601
(318) 439-4189

SERVICE AREA: Jefferson and St. Charles Parishes

Jefferson Community Action Program
2709 L & A Road
Metairie, LA 70001
(504) 837-6230

SERVICE AREA: Marrero, Harvey and Gretna

Jefferson Community Action Program
2001 Lincolnshire Drive
Marrero, LA 70072
(504) 347-7305

SERVICE AREA: Kenner

Jefferson Community Action Program
1300 Myrtle Street
Kenner, LA 70072
(504) 736-6480

SERVICE AREA: Avondale and Bridge City

Jefferson Community Action Program
1214 Plaza Street
Bridge City, LA 70094
(504) 436-0133

SERVICE AREA: City of Lafayette

City of Lafayette
705 West University
Lafayette, LA 70506
(318) 261-3447

SERVICE AREA: Livingston, St. Helena, Tangipahoa and Washington Parishes

Quad Area Community Action Agency
2310 Wardline Road
Hammond, LA 70401
(504) 345-2875

STATE OF LOUISIANA PAGE 2 OF 2

SERVICE AREA: St. James, Lafourche, and Terrebonne Parishes

St. James Parish Council
Department of Human Resources
St. James Parish Courthouse
Highway 44
Post Office Box 87
Convent, LA 70723
(504) 562-2300

SERVICE AREA: St. Landry Parish

St. Landry Community Action Agency
Post Office Drawer 1510
Community Services Building
Highway 749, Airport Road
Opelousas, LA 70570
(318) 948-3651

SERVICE AREA: St. Martin, Iberia and Lafayette

S.M.I.L.E. Community Action Agency
501 St. John Street
Lafayette, LA 70501
(318) 234-3272

SERVICE AREA: City of Thibodaux

City of Thibodaux
310 West 2nd
Post Office Box 63
Thibodaux, LA 70301
(504) 447-3767

SERVICE AREA: City of Slidell

Housing Authority of the City of Slidell
1230 Claude Street
Post Office Box 1392
(Claude St. Apts. I&J)
Slidell, LA 70459
(504) 641-5562

Cenla Community Action Committee, Inc.
425 Bolton Avenue
Alexandria, LA 71301
(318) 487-5978

Natchitoches Area Action Association, Inc.
Roque House on Front Street
Post Office Box 944
Natchitoches, LA 71457
(318) 352-9516

Ouachita Multi-Purpose Community Action Agency
3008 Lee Avenue
Monroe, LA 71202
(318) 322-7151

CADDO Community Action Agency, Inc.
1530 Arlington
Shreveport, LA 71103
(318) 424-8315

STATE OF MAINE

HUD-APPROVED HOUSING COUNSELING AGENCIES

SERVICE AREAS: Portland, Bath, Lewiston, and Bangor

Credit Counseling Centers, Inc.
991 Forest Avenue
P.O. Box 1021
Portland, ME 04104
(207) 878-2874
(800) 882-2227

STATE OF MARYLAND

HUD-APPROVED COUNSELING AGENCIES

Anne Arundel County Economic
Opportunity Committee, Inc.
251 West Street
Annapolis, MD 21401
(301) 280-1327

SERVICE AREA: Baltimore City

Baltimore Urban League
1150 Mondawmin Concourse
Baltimore, MD 21215
(301) 523-8150

Home Ownership and Rehabilitation
Services, City of Baltimore
417 E. Fayette Street
Baltimore, MD 21202
(301) 396-3124 (1st-Time Home Buyer)
(301) 396-4153 (Rehabilitation)

St. Ambrose Housing Aid Center
321 East 25th Street
Baltimore, MD 21218
(301) 235-5770

Community Organized to Improve Life
1137 West Baltimore Street
Baltimore, MD 21223
(301) 752-8500

SERVICE AREA: Baltimore County

Human Resources Development Agency
of Baltimore County, Inc.
7701 Dunmanway
Baltimore, MD 21222
(301) 285-4674

SERVICE AREA: Caroline County

Denton Urban Renewal Authority
13 North Third Street
Denton, MD 21639
(301) 479-3566

SERVICE AREA: Montgomery County

Spanish Speaking Community of
Maryland, Inc.
8519 Piney Branch Road
Silver Spring, MD 20901
(301) 587-7217

Dorchester Community
Development Corporation
445 Race Street
Post Office Box 549
Cambridge, MD 21613
(301) 228-3600

Garrett County Community Action
Committee, Inc.
360 West Liberty Street
Post Office Box 449
Oakland, MD 21550
(301) 334-9431

Harford County Public
Housing Agency
220 South Main Street
Bel Air, MD 21014
(301) 879-2000 Ext. 337 or 338
(301) 838-6000

SERVICE AREA: Howard County

Howard County Office of Housing and
Community Development
3450 Court House Drive
Ellicott City, MD 21043
(301) 992-2141

SERVICE AREA: Talbot County

Easton Housing Authority
900 Doverbrook
Post Office Box 207
Easton, MD 21601
(301) 822-5358

STATE OF MARYLAND

SERVICE AREA: Prince George County

United Communities Against Poverty
(UCAP)
1400 Doewood Lane
Capitol Heights, MD 20743
(301) 322-5700

Housing Opportnities Comm. of
Montgormery County
Housing Information Center
10400 Detrick Avenue
Kensington, MD 20895
(301) 933-9750 or 933-9767

Shore Up, Inc.
520 Snowhill Road
Post Office Box 430
Salisbury, MD 21001

Spanish Speaking Community
Prince Georges County
7411 Riggs Road, Suite 222
Hyattsville, MD 20783
(301) 434-5056

STATE OF MASSACHUSETTS

HUD-APPROVED COUNSELING AGENCIES

Boston Neighborhood Housing Services
33 Harrison Avenue
Boston, MA 02111
(617) 350-7071
Executive and Administrative Offices

Affiliate Housing Counseling Offices

Uphams Corner NHS
584 Columbia Road
P.O. Box 700
Dorchester, MA 02125
(617) 282-2900

Mount Bowdoin/Glenway NHS
7 Bowdoin Street
Dorchester, MA 02124
(617) 265-7934

Mission Hill NHS
1530 Tremont Street
Boston, MA 02120
(617) 442-5449

SERVICE AREA: City of Lynn

Lynn Department of Community Development
City Hall
Lynn, MA 01901
(617) 598-4000

SERVICE AREA: Central Massachusetts

Rural Housing Improvement, Inc.
Post Office Box 370
218 Central Street
Winchendon, MA 01475
(617) 297-1376

Unitas, Inc.
48 Lawrence Street
Lowell, MA 01852
(617) 458-8793

SERVICE AREA: Worcester County

The Housing Information. Center, Inc.
122 Millbury Street
Worcester, MA 01610
(617) 757-2150

Roxbury Multi-Service Center, Inc.
317 Blue Hill Avenue
Roxbury, MA 02121
(617) 427-4470

SERVICE AREA: Lowell, Dracut, Tewksbury, Billerica, Chelmsford, Westford, Tyngsboro, Dunstable

Community Teamwork, Inc.
Multi Service Center
167 Dutton Street
Lowell, MA 01852
(617) 459-0551

SERVICE AREA: Cape Cod

Housing Assistance Corporation
400 West Main Street
Hyannis, MA 02601
(617) 771-5400

Riverside/Cambridgeport Community Corporation
217 Western Avenue
Cambridge, MA 02139
(617) 868-7230

STATE OF MICHIGAN

HUD-APPROVED COUNSELING AGENCIES

Detroit Non-Profit Housing, Inc.
1200 Sixth Street, Room 404
Detroit, MI 48226
(313) 961-0024

Human Development Commission
429 Montague Street
Caro, MI 48723
(517) 673-4121

Michigan Housing Counselors
237 South Gratiot
Mt. Clemens, MI 48043
(313) 468-4594

Satellite Office

Michigan Housing Counselors
G-1173 Ballenger Road
Flint, MI 48504
(313) 235-4461

Oakland County Real Estate
Section Corporation Counsel
1200 North Telegraph Road
Pontiac, MI 48053
(313) 858-5402

Scrine Non-Profit Housing
2001 Greenfield, Suite No. 3
Detroit, MI 48235
(313) 837-7610

TULC Non-Profit Housing Corporation
3901 Grand River
Detroit, MI 48208
(313) 831-4444

Urban League of Flint
Family Life Center
202 East Boulevard Drive
Flint, MI 48503
(313) 239-2195

Credit Counseling Centers
Non-Profit Financial Counseling
8750 Telegraph Road, Suite 410
Taylor, MI 48180
(313) 374-2240

Credit Counseling Centers
Non-Profit Financial Counseling
Centennial Center, Suite 606
124 Pearl Street
Ypsilanti, MI 48917
(313) 483-0101

Credit Counseling Centers
Non-Profit Financial Counseling
1900 W. Big Beaver Road, Suite 230
Troy, MI 48034
(313) 643-4884

Credit Counseling Centers
Non-Profit Fin. Counseling
28423 Orchard Lake Road, Suite 210
Farmington Hills, MI 48018
(313) 489-0028

Credit Counseling Centers
Non-Profit Financial Counseling
5140 State Street
Saginaw, MI 48603
(517) 793-5623

STATE OF MICHIGAN

Credit Counseling Centers
Non-Profit Financial Counseling
111 South Waverly Road
Lansing, MI 48917
(517) 321-5836

Credit Counseling Centers
Non-Profit Financial Counseling
100 North Perrine
Jackson, MI 49201
(517) 788-9866

Credit Counseling Centers
Non-Profit Financial Counseling
2922 Fuller NE, Suite 203B
Grand Rapids, MI 49505
(616) 361-2608

Credit Counseling Centers
Non-Profit Financial Counseling
2757 Eastern, S.E.
Grand Rapids, MI 48505
(616) 245-8759

Credit Counseling Centers
Non-Profit Financial Counseling
20755 Greenfield, Suite 602
Southfield, MI 48075
(313) 557-7755

Credit Counseling Centers
3310 Miller Road, Suite B
Flint, MI 48507
(313) 230-1077

Credit Counseling Centers
Non-Profit Financial Counseling
27780 Novi Road, Suite 250
Novi, MI 48050
(313) 347-0600
(Main Office)

Housing Resource Center
300 N. Washington Square, Suite 302
Lansing, MI 48933
(517) 487-6051

Grand Rapids Urban League
745 Eastern, S.E.
Grand Rapids, MI 49503
(616) 245-2207 or 241-6429

Northwest Michigan Human Services
Agency, Inc.
3963 Three Mile Road
Traverse City, MI 49684
(616) 947-3780

Northwest Michigan Human
Services Agency, Inc.
822 Charlevoix Avenue
Petoskey, MI 49770
(616) 347-9070

Northwest Michigan Human
Services Agency, Inc.
117 West Cass
Cadillac, MI 49601
(616) 775-9781

Credit Counseling Centers
576 Romence Road, Suite 227
Portage, MI 49002
(616) 329-7153

Credit Counseling Centers
37040 Garfield, Suite T-5
Mt. Clemens, MI 48043
(313) 263-1160

STATE OF MINNESOTA

HUD APPROVED COUNSELING AENCIES

Consumer Credit Counseling Service
of Minnesota. Inc.
924 Plymouth Building
Minneapolis. MN 55402
(612) 339-1485

Hispanos en Minnesota
203 Prescott Street
St. Paul, MN 55107
(612) 227-0834

Pilot City Regional Center
1315 Penn Ave. North
Minneapolis. MN 55411
(612) 348-4752

St. Paul Housing Information Office
21 West Fourth Street
St. Paul. MN 55102
(612) 298-5591

St. Paul Urban League
401 Selby Avenue
St. Paul, MN 55102
(612) 224-5771

*Southern Minnesota Regional Legal
Services, Inc.
60 East Fourth Street
St. Paul, MN 55101
(612) 222-5863

**Southern Minnesota Regional Legal
Services, Inc.
(Branch Office)
Fifth and Oak
Carver, MN 55315
(612) 448-4880

***Senior Housing Inc.
Subsidiary of Metropolitan Senior
Federation
1885 University Ave. West
St. Paul, MN 55104
(612) 645-0261

*Service Areas: Dakota, Ramsey,
Goodhue and Washington Counties

**Service Areas: Carver, Scott and
Rice Counties

***Provides Reverse Equity Mortgage
Counseling Only

-30- 5/1/89

STATE OF MISSISSIPPI

HUD-APPROVED COUNSELING AGENCIES

Jackson Urban League
Post Office Box 11249
3405 Medgar Evers Boulevard
Jackson, MS 39213
(601) 981-4211

Gulf Coast Community Action Agency
Post Office Box 519
500 24th Street
Gulfport, MS 39501
(601) 868-4250

STATE OF MISSOURI

HUD-APPROVED COUNSELING AGENCIES

St. Louis Urban League
3701 Grandel Square
St. Louis, MO 63108
(314) 371-0040

Northeast Community Action Coalition
204 W. Main
Bowling Green, MO 63334
(314) 324-2231

North Area Community Forum
9811 W. Florissant, Room 301
Dellwood, MO 63136
(314) 524-6170

CMC Human Dev. Corp.
Post Office Box 1038
Providence & 4th Avenue
Columbia, MO 65201
(314) 443-8706

County Office

St. Louis Urban League
5625 Martin Luther King
Kinloch, MO 63140
(314) 521-1440

Grundy County Public
Housing Authority
207 East 10th Court
Trenton, MO 64633
(816) 359-3907

Housing Information Center
3810 Paseo
Kansas City, MO 64109
(816) 931-0443

Metropolitan Lutheran Ministry
3031 Holmes
Kansas City, MO 64109
(816) 931-0027

West Central Missouri Rural
Development Corporation
101 East 4th Street
Post Office Box 125
Appleton City, MO 64724
(816) 476-2184

Missouri Valley Human Resource
Development Corporation
1415 South Odell Avenue
Post Office Box 550
Marshall, MO 65340-0550
(816) 886-7476

Green Hills Human Resources Corp.
204 East 10th Court
Trenton, MO 64683
(816) 359-3907

Northside Preservation Commission
5647 Delmar Boulevard
St. Louis, MO 63112
(314) 367-6668

STATE OF MONTANA

HUD-APPROVED COUNSELING AGENCIES

Northwest Montana Human Resources
Council
#8 First and Main Building
Post Office Box 1058
Kalispell, MT 59903-1058
(406) 755-1567

STATE OF NEBRASKA

HUD-APPROVED COUNSELING AGENCIES

The Urban Housing Foundation, Inc.
2416 Lake Street
Omaha, NE 68111
(402) 444-7921

SERVICE AREA: Lancaster and Saunders Counties

Lincoln Action Program, Inc.
2202 South 11th Street
Lincoln, NE 68502
(402) 491-4515

SERVICE AREA: Greater Metropolitan Area of Omaha, NE

Holy Name Housing Corporation
3014 North 45ths Street
Omaha, NE 68104
(402) 453-1600

STATE OF NEVADA

HUD-APPROVED COUNSELING AGENCIES

Operation Life Community
Development Corporation
600 West Owens Avenue
Las Vegas, NV 89106
(702) 649-0931

Poor People Pulling Together
1801 North J Street
Las Vegas, NV 89106
(702) 648-4645

STATE OF NEW HAMPSHIRE

HUD-APPROVED HOUSING COUNSELING AGENCIES

SERVICE AREAS: In New Hampshire-Concord, Manchester, Nashua, Peterborough, Keene and Laconia

Consumer Credit Counseling Service of
N.H. and VT.
8 Union Street
P.O. Box 676
Concord, N.H. 03302-0676
(603) 224-6593

STATE OF NEW JERSEY

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: Hudson County

Bayonne Economic Opportunity Foundation
555 Kennedy Boulevard
Bayonne, NJ 07002
(201) 437-7222
(Main Office - Non-Counseling)

SERVICE AREA: Middlesex County

Middlesex County Economic Opportunities Corporation
841 Georges
North Brunswick, NJ 08902
(201) 846-6600
(Main Office - Non-Counseling)

SERVICE AREA: Satellite

A.I.M.S.
334 Stockton Street, #113
Perth Amboy, NJ 08861
(201) 324-1580

SERVICE AREA: Monmouth County

Check Mate Incorporated
649 Mattison Avenue
Asbury Park, NJ 07712
(201) 774-3100

Monmouth County Board of Social Service
Burlington & Kozlosik Road
Post Office Box 3000
Freehold, NJ 07728
(201) 431-7987

SERVICE AREA: Morris County

Morris County Fair Housing Council
19 Market Street
Post Office Box 773
Morristown, NJ 07960
(201) 538-2975

SERVICE AREA: Union County

Urban League of Union County
272 North Broad Street
Elizabeth, NJ 07208
(201) 351-7200

SERVICE AREA: Passaic County

Paterson Task Force
111 Ellison Street
Paterson, NJ 07505
(201) 279-2333

SERVICE AREA: Bergen County

Urban League of Bergen County
106 West Palisade Avenue
Englewood, NJ 07631
(201) 568-4988

SERVICE AREA: Essex County

Urban League of Essex County
508 Central Avenue
Newark, NJ 07107
(201) 623-1790
(Counseling Office)

STATE OF NEW JERSEY

SERVICE AREA: Essex County

City of East Orange
Housing Consumer Counseling
122 Brighton Avenue
East Orange, NJ 07107
(201) 266-5415 or 266-5444

Urban League of Essex County
744 Broad Street, Suite 307
Newark, NJ 07102
(201) 624-6660
(Main Office - Non-Counseling)

Atlantic Human Resources, Inc.
10 South Tennessee Avenue
Atlantic City, NJ 08401
(609) 348-4131

Jaycee Housing Counseling, Inc.
1840 South Broadway
Camden, NJ 08104
(609) 541-1000

Ocean Community Economic Action
Now, Inc.
40 Washington Street
Toms River, NJ 08753
(201) 244-5333

Trenton Housing Counseling Service
City Hall Annex - 3rd Floor
319 East State Street
Trenton, NJ 08618
(609) 989-3598

City of Atlantic City
Code Enforcement
1301 Bacharach Boulevard
Atlantic City, NJ 08401
(609) 347-5675

Borough of Clayton
Welfare and Counseling Department
125 N. Delsea Drive
Clayton, NJ 03312
(609) 881-2882

STATE OF NEW MEXICO

HUD-APPROVED COUNSELING AGENCIES

Consumer Credit Counseling
Service of Albuquerque
5318 Menaul Northeast
Albuquerque, NM 87110-3195
(505) 884-5601

SERVICE AREA: Luna, Dona, Ana, Otero, Lincoln Eddy, Lea Counties in New Mexico

Guadalupe Economic
Services Corporation
Satellite Office:
800 South Piedras
El Paso, TX 79901
(915) 545-4950

STATE OF NEW YORK

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: Manhattan

L.E.S. Coalition Housing Development
187-89 Avenue B
New York, NY 10009
(212) 677-4772

SERVICE AREA: Manhattan

New York Hispanic Housing Coalition
199 Avenue B
Post Office Box 880
New York, NY 10009
(212) 460-0951

SERVICE AREA: Brooklyn

Gowanus Canal Community Development Corporation
515 Court Street
Brooklyn, NY 11231
(718) 858-0558

Brooklyn Neighborhood Improvement Association
648 Washington Avenue
Brooklyn, NY 11238
(718) 622-6026

Commission of Human Rights
Neighborhood Stabilization Program
1368 Fulton St. - 3rd Floor
Brooklyn, NY 11216
(718) 230-3600

Renaissance Development Corp.
489 Rockaway Avenue
Brooklyn, NY 11212
(718) 498-7210

Commission on Human Rights
3442 Fulton Street
Brooklyn, NY 11203
(718) 827-7000

SERVICE AREA: Queens

Baisley Park Neighbors
114-02 Guy Brewer Boulevard
Jamaica, NY 11433
(718) 523-3613

SERVICE AREA: Queens

Margret Community Corporation
1920 New Haven Avenue
Far Rockaway, NY 11691
(718) 471-3724

SERVICE AREA: Bronx

South Bronx Action Group, Inc.
384 East 149th Street, Suite 220
Bronx, NY 10455
(212) 993-5869

Office of Neighborhood Stabilization Program
Commission of Human Rights
4101 White Plains Road
Bronx, NY 10460
(212) 798-3542

Soundview Peninsula N.H.S.
912 Soundview Avenue
Bronx, NY 10473
(212) 645-6363

SERVICE AREA: Suffolk County

Suffolk Housing Services
550 Smithtown-by-Pass, Room 220
Hauppauge, NY 11787
(516) 724-6920

STATE OF NEW YORK

Bellport, Hagerman, East Patchogue Alliance
1731 Montauk Highway
Bellport, NY 11713
(516) 286-9236 OR 286-9264

SERVICE AREA: Suffolk County

Wyandanch Community Development Corporation
1527 B. Straight Path
Wyandanch, NY 11798
(516) 643-4796

SERVICE AREA: Queens

AHHS Housing & Neighborhood Preservation Coalition, Inc.
100-02 Rockaway Beach Blvd.
Rockaway Park, NY 11694
(718) 474-3232

Elmor Youth and Adult Activities
107-20 Northern Boulevard
Corona, NY 11368
(718) 651-0096

City Commission of Human Rights Neighborhood Stabilization Program
89-11 161st Street, Room 210
Jamaica, NY 11432
(718) 657-9333

SERVICE AREA: Orange, Dutches and Ulster Counties

Coalition for People's Rights
Post Office Box 1214
182 Grand Street
Newburgh, NY 12550
(914) 565-5420

Orange County Rural Development Advisory Corporation
223 Greenwich Avenue
Goshen, NY 10924
(914) 294-8336

SERVICE AREA: Westchester County

New Rochelle CAP
95 Lincoln Avenue
New Rochelle, NY 10801
(914) 636-3050

Westchester Residential Opportunities, Inc.
470 Mamaroneck Avenue
White Plains, NY 10605
(914) 428-4507 or 668-4424

Capitol Hill Improvement Corp.
260 Lark Street
Albany, NY 12210
(518) 462-9696

SERVICE AREA: Broome County

Metro-Interfaith Services, Inc.
21 New Street
Binghamton, NY 13903
(607) 772-6765

SERVICE AREA: Cayuga County Area

Cayuga County Homsite Development Corporation
60 Clark Street
Auburn, NY 13021
(315) 253-8451

SERVICE AREA: Chenango County

Chenango Home Improvement Program, Inc.
99 North Broad Street
Norwich, NY 13815
(607) 334-3867

STATE OF NEW YORK

SERVICE AREA: Omeida County

Consumer Credit Counseling Services
of New York, Inc.
502 Bleeker Street
Utica, NY 13501
(315) 797-5366
(Branch Office)

Consumer Credit Counseling Services
of Central New York, Inc.
120 East Washington Street
1006 University Building
Syracuse, NY 13202-4093 (315) 474-6026
(Main Office)

SERVICE AREA: Onondaga County

Urban League of Onondaga County,
Inc. 825 South Salina Street
Syracuse, NY 13202
(315) 474-5751

SERVICE AREA: Rensselaer County

Troy Rehabilitation and Improvement
Program, Inc.
415 River Street
P.O. Box 1249
Troy, NY 12181
(518) 272-8289

SERVICE AREA: Schenectady County

Better Neighborhoods, Inc.
975 Albany Street
Schenectady, NY 12307
(518) 372-6469

SERVICE AREA: Sullivan County

Rural Sullivan County Housing
Opportunities, Inc.
375 Broadway
Monticello, NY 12701
(914) 794-0348

SERVICE AREA: Cattaraugus County

Eastside Neighborhood Organization
for Development, Inc.
602 Exchange National Bank Building
Olean, NY 14760
(716) 372-0602

SERVICE AREA: Chautauqua County

Chautauqua Opportunities, Inc.
204 Lafayette Street
Jamestown, NY 14701
(716) 488-0765

SERVICE AREA: Erie County

Buffalo Urban League
455 William Street
Buffalo, NY 14204
(716) 854-7625

Fillmore Leroy Area Residents, Inc.
(FLARE)
307 Leroy Avenue
Buffalo, NY 14214
(716) 838-6740

SERVICE AREA: Erie County

Housing Assistance Center of
Niagara Frontier
1233 Main Street
Buffalo, NY 14209
(716) 881-2200 Main Office

SERVICE AREA: Monroe County

Housing Council in Monroe County
Area, Inc.
242 Andrews Street
Rochester, NY 14604
(716) 546-3700

STATE OF NEW YORK PAGE 4 OF 4

Monroe County Human Relations
Commission
619 Powers Building
16 West Main Street
Rochester, NY 14614
(716) 454-1050

SERVICE AREA: Orleans County

Housing Development Council of
Orleans County
227 West Avenue
Albion, NY 14411
(716) 589-7037

SERVICE AREA: Columbia County

Columbia Preservation Corporation
557 Warren Street
Hudson, NY 12534
(518) 828-0066

United Tenants of Albany, Inc.
33 Clinton Street
Albany, NY 12207
(518) 436-8997

STATE OF NORTH CAROLINA

HUD-APPROVED COUNSELING AGENCIES

Family Housing Services
Alexander Street Center
910 N. Alexander Street
Charlotte, NC 28205
(704) 336-4489

Cumberland County Community Action Program, Inc.
503 Hillsboro Street
Fayetteville, NC 28302
(919) 485-6131

Raleigh Housing Authority
600 Tucker Street
Raleigh, NC 27611
(919) 755-6043

Johnston Lee Community Action, Inc.
1102 Massey Street
Smithfield, NC 27577
(919) 934-2145

Carteret County Community Action
Post Office Drawer 90
Beaufort, NC 28516
(919) 728-4528

Consumer Credit Counseling of Western North Carolina
331 College Street
Asheville, NC 28802
(704) 255-5166

Consumer Credit Counseling Services of Forsyth County
831 First Union National Bank Building
Winston Salem, NC 27101
(919) 725-1958

Northwestern Regional Housing Authority
105 Extension
Boone, NC 28607
(704) 264-6683

City of Winston Salem
Department of Community Development
310 W. Fourth Street, Suite 1300
Winston Salem, NC 27101
(919) 727-8595

STATE OF NORTH DAKOTA

HUD-APPROVED COUNSELING AGENCIES

Community Action Opportunity, Inc.
420 3rd Street, S.W.
Post Office Box 1057
Minot, ND 58701
(701) 839-7221

Community Action and Development
Program
652 West Villard
Dickinson, ND 58601
(701) 227-0131

Community Action Program
Region VII, Inc.
2105 Lee Avenue
Bismarck, ND 58501
(701) 258-2240

Community Action
Region VI, Inc.
Highway 281 North
Post Office Box 507
Jamestown, ND 58401
(701) 252-1821

Quad County Community Action Agency
27 1/2 South 3rd Street
Grand Forks, ND 58201
(701) 746-5431

Southeastern North Dakota
Community Action Agency
3343 15th Street South
Fargo, ND 58102
(701) 232-2452

STATE OF OHIO

HUD-APPROVED COUNSELING AGENCIES

The Better Housing League
2400 Reading Road
Cincinnati, OH 45202
(513) 721-6855

Montgomery County Community Action Agency (MCCAA)
318 S. Navy Street
Dayton, OH 45402
(513) 275-6079

Children's and Family Service Consumer Credit Counseling
535 Marmion Avenue
Youngstown, OH 44502
(216) 782-5664

Consumer Protection Association
3101 Euclid Avenue - Room 603
Cleveland, OH 44115
(216) 881-3434

Family Service Associations
1704 North Road S.E.
Heaton Square, Suite 2
Warren, OH 44484
(216) 856-2907

Lutheran Housing Corporation
Westside Office
1967 West 45th Street
Cleveland, OH 44102
(216) 651-0777

Massillon Urban League
Massillon Building - Suite 405
Massillon, OH 44646
(216) 833-2804

Neighborhood House Association of Lorain County
1536 East 30th Street
Lorain, OH 44055
(216) 277-8269

Urban League of Greater Cleveland
12001 Shaker Boulevard
Cleveland, OH 44120
(216) 421-0999

Youngstown Area Urban League
2516 Market Street
Youngstown, OH 44507
(216) 788-6533

City of Cambridge
Community Development Department
1131 Steubenville Avenue
Cambridge, OH 43725
(614) 439-5491

CONSOC
272 S. Gift Street
Columbus, OH 43215
(614) 461-4114

STATE OF OHIO

Consumer Credit Counseling
of Columbus
697 East Broad Street
Columbus, OH 43215
(614) 464-2227

Consumer Credit Counseling Service
United Way Building
712 Market Street
Zanesville, OH 43701
(514) 454-6372

Ironton-Lawrence County Area
Community Action Organization
305 N. Fifth Street
Ironton, OH 45638
(614) 532-3534

Marion-Crawford Community Action
Commission
240 E. Church Street, P.O. Box 779
Marion, OH 43302
(614) 387-1039

Portsmouth-Inner City Corp.
Post Office Box 847
1206 Waller Street
Portsmouth, OH 45662
(614) 354-6626

Regional Housing Center
595 East Broad Street
Post Office Box 7050
Columbus, OH 43205
(614) 224-3409

Catholic Charities, Diocese
of Youngstown
225 Elm Street
Youngstown, OH 44503
(216) 991-2121

Catholic Services League, Inc.
4436 Main Avenue
P.O. Drawer 1338
Ashtabula, OH 44004-1853
(215) 992-2121

Catholic Services League, Inc.
5385 Market Street
Boardman, OH 44512
(216) 788-8726

The Catholic Services League,
of Western Stark County, Inc.
1307 Lincoln Way East
Massillon, OH 44646
(216) 833-3516

Catholic Community Services, Inc
of Trumbull County
2932 Youngstown Road, S.E.
Warren, OH 44484
(216) 369-4254

Family & Community Services, Inc
of Catholic Charities
of Columbiana County
Box 413
996 1/2 N. Market Street
Lisbon, OH 44432
(216) 424-9509

Family & Community Services
of Catholic Charities, Inc.
302 North Depeyster Street
Kent, OH 44240
(216) 678-3911

The Catholic Community League
of Canton, Inc.
625 Cleveland Avenue, N.W.
Canton, OH 44702
(216) 455-0374

STATE OF OKLAHOMA

HUD-APPROVED COUNSELING AGENCIES

Deep Fork Community Action
Foundation, Inc.
320 N. Wood
Post Office Box 670
Omulgee, OK 74447
(918) 756-2826

Housing Authority of the
Choctaw Nation
1005 South 5th
Hugo, OK 74743
(405) 326-3348

Housing Authority of the Seneca-
Cayuga Tribe of Indians
of Oklahoma
3606 Sencay Avenue
Post Office Box 1304
Miami, OK 74354
(918) 542-1873

Little Dixie Community Action, Inc.
207 East Jackson Street
Hugo, OK 74743
(405) 326-6441

Oklahoma Indian Association
Post Office Box G
1005 South 5th
Hugo, OK 74743
(405) 326-3348

Opportunities, Inc.
Box 569
114 First Street
Watonga, OK 73772
(405) 623-7233

Payne/Noble Community Action
Foundation
Post Office Box 98
619 West 12th Street
Stillwater, OK 74074
(405) 377-0898

United Community Action
Program, Inc.
Post Office Box 384
Indian Agency Road
Pawnee, OK 74058
(918) 762-2561

Wa-Ro-Ma Tri-County Community
Action Foundation
Post Office Box 297
200 East Patti Page
Claremore, OK 74017
(918) 485-3129

Washington-Nowata County Community
Action Foundation
Post Office Box 486
20001 Portland Avenue
Dewey, OK 74029
(918) 534-2115

Credit Counseling Center
2140 South Harvard
Tulsa, OK 74159
(918) 744-5611

Metropolitan Tulsa Urban League
240 East Apache Street
Tulsa, OK 74106-3799
(918) 584-5221

Housing Authority of Oklahoma
Cherokee Nation of Oklahoma
1500 Hemsley Drive
Post Office Box 1007
Tahlequah, OK 74465
(918) 456-5432

Housing Authority of Osage Tribe
of Indians
125 North Main
Post Office Box 517
Hominy, OK 74035
(918) 885-5575

STATE OF OKLAHOMA

Association of South Central
Oklahoma Governments
802 Main Street
Duncan, OK 73533
(405) 252-0595

Consumer Credit Counseling Service
2519 Northwest 23rd Street, Room 203
Oklahoma City, OK 73107
(405) 947-6631
(Main Office)

Elk City Housing Authority
1510 West 9th Street Circle
Post Office Box 647
Elk City, OK 73644
(405) 225-0129

Housing Authority of
the Sac & Fox Nation
526 North Kimberly
Post Office Box 1252
Shawnee, OK 74802-125
(405) 275-3200

Jerry D. Duncan Consultants
308 Southeast County Road
Ada, OK 74820
(405) 332-7051

Oklahoma Indian Housing Association
Post Office Box 668
Ada, OK 74820
(405) 436-1560

Housing Authority of Chickasaw
Nation
Post Office Box 668
401 Country Club
Ada, OK 74820
(405) 436-1560

Housing Authority of the Absentee-
Shawnee Tribe of Indians
Post Office Box 425
107 North Kimberly
Shawnee, OK 74801
(405) 273-1050

Washita Valley Community
Action Council
118 Chickasha Avenue
Post Office Box 747
Chickasha, OK 73018
(405) 224-5831

Big Five Community Services Agency
704 North Oak
Post Office Box 1698
Ada, OK 74820
(405) 332-4285

Delta Community Action Foundation
921 Maple
Duncan, OK 73533
(405) 255-3222

Housing Authority of the
City of Shawnee
1002 West 7th Street
Shawnee, OK 74801
(405) 275-6330

Southwest Oklahoma Community
Action Group, Inc.
121 North Grady Street
Altus, OK 73521
(405) 482-5040

Great Plains Improvement
Foundation, Inc.
1904 Washington
Lawton, OK 73501
(405) 353-2364

Rural Enterprises Community Action
Program, Inc.
Post Office Box 939
122 S. Main
Federick, OK 73542
(405) 335-5598

STATE OF OKLAHOMA

Satellite Centers:

Consumer Credit Counseling Service
Building 461, Room 109
Tinker Air Force Base, OK 73145
(405) 739-2747/739-2417

Consumer Credit Counseling Service
1114 Southwest A Street
Lawton, OK 73501
(405) 353-7800

Consumer Credit Counseling Service
601 N. Porter
Norman, OK 73071
(405) 321-5731

STATE OF OREGON

HUD-APPROVED COUNSELING AGENCIES

Human Solutions, Inc.
4420 S.E. 64th Avenue
Portland, OR 97206
(503) 777-4761

Oregon Housing and Associated
Services, Inc.
1395 Liberty Street South, Suite 201
Salem, OR 97302
(503) 585-6193

Consumer Credit Counseling Service
of Oregon, Inc.
3420 S.E. Powell Boulevard
Portland, OR 97202
(503) 232-8139

Consumer Credit Counseling Service
of Linn-Benton, Inc.
201 W. 1st
Post Office Box 1006
Albany, OR 97321
(503) 296-5851

Housing Services of Oregon
567 North 19th Street
Cornelius, OR 97113
(503) 359-0376 or 357-7543

Southwestern Oregon Community
Action Committee
1993 Sherman Avenue
North Bend, OR 97459
(503) 756-3176

Umpqua Community Action Network
2448 West Harvard Blvd.
Roseburg, OR 97470
(503) 672-3285

STATE OF PENNSYLVANIA

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: Delaware County (Penn Site Office)

Delaware County H. O. P. E.
Philadelphia Council for Community Advancement
511 Welsh Street
Chester, PA 19013
(215) 872-3500

SERVICE AREA: Harrisburg

Urban League of Metropolitan Harrisburg, Inc.
28 North Second Street
Harrisburg, PA 17101
(717) 234-3253

SERVICE AREA: Lancaster County

Tabor Community Services, Inc.
320 South Duke Street
Lancaster, PA 17602
(717) 397-5182

SERVICE AREA: Lehigh Valley

Consumer Credit Counseling Service of Lehigh Valley, Inc.
1031 Linden Street
Allentown, PA 18102
(215) 821-4011

SERVICE AREA: Luzerne County

Commission of Economic Opportunity of Luzerne County
211-213 South Main Street
Wilkes-Barre, PA 18701
(717) 826-0510

Housing Association and Development
411 Walnut Street
Post Office Box 1505
Allentown, PA 18105
(215) 432-6336

Housing Association of Delaware Valley
Housing Association Information Program
1314 Chestnut Street, Suite 900
Philadelphia, PA 19107
(215) 545-6010

SERVICE AREA: Reading and Berks Counties

Economic Opportunity Council of Reading and Berks County, Inc.
229 Fourth Street
Reading, PA 19601
(215) 376-6571 or 376-6570

SERVICE AREA: York County

Housing Council of York
116 North George Street
York, PA 17401
(717) 854-1541

Council of Three Rivers American Indian Center, Inc.
200 Charles Street
Pittsburgh, PA 15238
(412) 782-4457

Housing Association of Delaware Valley
Housing Association Information Program
658-60 North Watts Street
Philadelphia, PA 19123
(215) 978-0224
(Counseling Office)

STATE OF PENNSYLVANIA

Neighborhood Development Alliance
3935 Ogontz Avenue
Philadelphia, PA 19141
(215) 424-1111

Northwest Counseling Service, Inc.
5601 N. Broad Street, Suite 209
Philadelphia, PA 19141
(215) 549-2344

Philadelphia Council For Community Advancement
100 N. 17th Street, Suite 600
Philadelphia, PA 19102
(215) 567-7803

Philadelphia Housing Development Corporation
1234 Market Street - 10th Floor
Philadelphia, PA 19107
(215) 448-3137 or 448-3132

Southwest Germantown Community Development Corporation
5002 Wayne Avenue
Philadelphia, PA 19144
(215) 843-2000

Urban League of Philadelphia Education Foundation
Housing Information Center
4601 Market Street, Suite 2 South
Philadelphia, PA 19139
(215) 476-4040 or 476-4075

Washington-Greene Community Action Corporation
2198 North Main Street
Washington, PA 15301
(412) 255-9550

SERVICE AREA: Blair County

Altoona/Blair County Community Housing Resource Board
1122 6th Avenue
Post Office Box 1495
Altoona, PA 16603
(814) 944-7286

Satellite Office

Consumer Credit Counseling Service of Western Pennsylvania, Inc.
500-02 Third Avenue
Post Office Box 278
Duncansville, PA 16635-0278
(814) 696-3546

SERVICE AREA: Cambria County

Cambria County Housing Corporation
Swann Building, Room 304
615 Main Street
Johnston, PA 15901
(314) 535-8300

SERVICE AREA: Erie County, PA

Bayfront NATO, Inc.
Martin Luther King Center
312 Chestnut Street
Erie, Pa 16507
(814) 459-2761

Booker T. Washington, Inc.
1720 Holland Street
Erie, PA 16503
(814) 453-5744

H.A.N.D.S., Inc
139 East 12th Street
Erie, PA 16501
(314) 459-1047

John F. Kennedy Center
2021 East 20th Street
Erie, PA 16501
(814) 898-0400

Family Service of Erie
110 West 10th Street
Erie, PA 16501
(814) 454-6478

STATE OF PENNSYLVANIA

SERVICE AREA: Greene County

Satellite Office

Washington/Greene Community
Action Corporation
202 Old County Office Building
Waynesburg, PA 15370
(412) 852-2893

SERVICE AREA: Lawrence County

Satellite Office

Consumer Credit Counseling Service
of Western Pennsylvania, Inc.
309 Smithfield Street
Haney Office Building, Suite 304
New Castle, PA 16101
(412) 652-8074

SERVICE AREA: Mercer County

Shenago Valley Urban League
39 Chestnut Street
Sharon, PA 16146
(412) 981-5310

SERVICE AREA: Washington County

Washington/Greene Community
Action Corporation
2198 North Main Street
Washington, PA 15301
(412) 225-9550

* Service Areas: Allegheny, Westmorland, Beaver, Butler and Washington Counties.

SERVICE AREA: Westmoreland County

Consumer Credit Counseling Service
of Western Pennsylvania, Inc.
Chamber of Commerce Building
662 North Main Street
Greensburgh, PA 15601
(412) 838-1290

Consumer Credit Counseling Service
of Western Pennsylvania, Inc.
309 Smithfield Street
Pittsburgh, PA 15222
(412) 471-7584

Elder-ado, Inc.
320 Brownsville Road
Pittsburgh, PA 15210
(412) 381-6900

Garfield Jubilee Association
5138 Penn Avenue
Pittsburgh, PA 15224
(412) 665-5200

*Housing Opportunities, Inc.
133 7th Street
Post Office Box 9
McKeesport, PA 15134
(412) 664-1590

Urban League Housing Counseling
Service, Inc.
304 Ross Street
Pittsburgh, PA 15219
(412) 261-0932

* Also under contract with HUD to bring its HOPE default counseling program to any locality where an emergency condition may arise or exists due to plant layoffs, plant closings, mergers, acquisitions, and reorganizations. The Department is concerned when such conditions precipitate unemployment, high defaults, requests for assignment of mortgages to HUD, and high foreclosures.

PUERTO RICO

HUD-APPROVED COUNSELING AGENCIES

Congresso de Trabajadores y
Consumidores de P.R., Inc.
(CONTACO, INC.)
Apartado 10646
Estacion Caparra Heights, PR 00922
(809) 721-6003, 721-6004
or 721-6005

Instituto Ponceno del Hogar
P.O. Box 5009
Calle Sol #81
Ponce, PR 00731
(809) 843-1666

STATE OF RHODE ISLAND

HUD-APPROVED COUNSELING AGENCIES

Blackstone Valley Community Action
Program, Inc.
22 Prospect Heights
Pawtucket, RI 02860
(401) 722-3180

Church Community Corporation
40 Dearborn Street
Post Office Box 577
Newport, RI 02840
(401) 846-5114

Urban League of Rhode Island
246 Prairie Avenue
Providence, RI 02905
(401) 351-5000

STATE OF SOUTH CAROLINA

HUD-APPROVED COUNSELING AGENCIES

Aiken County Community Action Commission, Inc.
Post Office Box 2094
502 York Street
Aiken, SC 29801
(803) 648-6836

Chesterfield-Marlboro Economic Opportunity Council, Inc.
Post Office Box 866
71 Second Street
Cheraw, SC 29520
(803) 537-5256

Columbia Housing Authority
Post Office Box 4307
1917 Harden Street
Columbia, SC 29240
(803) 254-3886

Greenville Housing Authority
Post Office Box 10047
511 Augusta Street
Greenville, SC 29603
(803) 271-2670

Greenville Urban League
Post Office Box 10161
15 Regency Hill Drive
Greenville, SC 29603
(803) 244-3862

Consumer Credit Counseling
Family Service Center
1800 Main Street
Columbia, SC 29201
(803) 733-5450 or
Toll Free 1-800-922-5651

Palmetto Legal Services, Inc.
2109 Bull Street
Post Office Box 2267
Columbia, SC 29202
(803) 799-9668

Low Country Community Action Agency, Inc.
334 Wichman Street
Walterboro, SC 29488
(803) 549-5576

Spectrum, Institute
1108 Woodrow Street
Columbia, SC 29205
(803) 771-0123

Trident United Way
1069 King Street
Charleston, SC 29403
(803) 723-1676

Wateree Community Action Agency
13 South Main Street
Post Office Box 1838
Sumter, SC 29150
(803) 773-6512

Pee Dee Community Action Agency
Post Office Drawer 12670
2685 South Irby Street
Florence, SC 29504
(803) 662-2579

STATE OF TENNESSEE

HUD-APPROVED COUNSELING AGENCIES

Department of Community Development
City of Cleveland
160 Second Street, NW
Cleveland, TN 37311

Department of Human Services
City of Chattanooga
501 11th Street, West
Chattanooga, TN 37402
(615) 755-5541, EXT. 6

Douglas-Cherokee Economic
Authority, Inc.
534 East First North Street
Morristown, TN 37816
(615) 587-4500

Consumer Credit Counseling Service
of Greater Knoxville, Inc.
705 Broadway, NE Suite 200
Knoxville, TN 37917
(615) 522-2661 or 522-7151

East Tenn. Human Resource Agency
6712 Deane Hill Drive
Knoxville, TN 37919
(615) 691-2551

First Tenn. Housing Service Corp.
c/o Upper East Tennessee Human
Development Agency
301 Louis Street
Kingsport, TN 37662
(615) 246-6180

Knoxville Area Urban League
Post Office Box 1911
2416 Magnolia Avenue
Knoxville, TN 37901
(615) 324-1801

Memphis Urban League, Inc.
2279 Lamar Avenue
Memphis, TN 38114
(901) 327-3591

Housing Opportunities Corporation
8 North Third - Suite 2300
Memphis, TN 38103
(901) 526-2191

Memphis Area Legal Services
161 Jefferson Avenue - Suite 1100
Memphis, TN 38103
(901) 526-5132

Brownsville Housing Authority
23 East Main Street
Brownsville, TN 38012
(901) 772-0274

Hope, Incorporated
1501 Herman Street, Suite "S"
Nashville, TN 37208
(615) 328-4440

Metropolitan Development and
Housing Agency (MDHA)
701 S. 6th Street
Post Office Box 846
Nashville, TN 37202
(615) 252-8521

Metropolitan Action Commission
1624 Fifth Avenue North
Nashville, TN 37208
(615) 259-5072

Metropolitan Social Services
25 Middleton Street
Nashville, TN 37210
(615) 259-5381

Nashville Urban League
2701 Jefferson Street
Nashville, TN 37208
(615) 329-2575

Citizens For Affordable
Housing, Inc.
1719 West Ford Avenue, Suite 226
Nashville, TN 37203
(615) 321-5626

STATE OF TEXAS

HUD-APPROVED COUNSELING AGENCIES

Colonias Del Valle
1004 Frontage Road
Post Office Box 19
Alamo, TX 78516
(512) 787-9901

Austin Housing Authority
Social Services Division
1640 E. 2nd Street
Austin, TX 78702
(512) 477-4488

Child and Family Service, Inc.
Consumer Credit Counseling Division
1221 W. Ben White Blvd., Suite 112-B
Austin, TX 78704
(512) 447-0711

Community Development Corporation
of Brownsville
1150 E. Adams Street, 2nd Floor
Brownsville, TX 78521
(512) 541-4955

Community Action Division
Housing Counseling Program
115 Plaza de Armas, Suite 200
San Antonio, TX 78207
(512) 299-7835

Gulf Coast Community Services
Association
6300 Bowling Green
Houston, TX 77221
(713) 748-4410, Ext. 12

Guadalupe Economic Services Corp.
1415 First Street
Lubbock, TX 79401
(806) 744-4416

Consumer Credit Counseling Service
of North Central Texas
203-B West Louisiana
McKinney, TX 75069
(214) 542-0257

Greater El Paso Ser
4838 Montana Avenue
El Paso, TX 79903
(915) 565-48888

Community Services of Corsicana
Post Office Box 512
Highway 75 and 6th Avenue
Corsicana, TX 75170
(214) 872-2401

Consumer Credit Counseling Service
1949 Stemmons Freeway
Suite 200
Dallas, TX 75207-3104
(214) 748-2227

Dallas Urban League
2121 Main Street, Suite 410
Dallas, TX 75201-4321
(214) 747-4416

Consumer Credit Counseling of
Fort Worth
807 Texas Street, Suite 100
Fort Worth, TX 76102
(817) 334-0151

Austin Housing Authority
Counseling Office
Rosewood Ct., Ct. 6, Unit 4
1640 E. Second
Austin, TX 78702
(512) 478-4685

Housing Authority of the City
Of Marshall
406 Poplar Street
Marshall, TX 75670
(214) 938-0717

Houston Community Housing
Resource Board
2616 Loop West, Suite 518
Houston, TX 77054
(713) 667-0433

Houston Area Urban League
5445 Almeda, Suite 400
Houston, TX 77004
(713) 526-5127

STATE OF UTAH

HUD-APPROVED COUNSELING AGENCIES

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Mountainland Community Action
257 East Center, Suite #201A
Provo, UT 84601
(801) 373-8200

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22 Lincoln Street
Post Office Box 280
Hampton, VA 23669
(804) 826-3030

Housing and Rehabilitation
City of Hampton
City Hall
22 Lincoln Street
Hampton, VA 23669
(804) 727-6460

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2410 Wickham Avenue
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Newport News, VA 23607
(804) 245-5642

Comprehensive Housing of Norfolk (CHIN)
Norfolk Redevelopment and Housing Authority
201 Granby Street
Post Office Box 968
Norfolk, VA 23501
(804) 623-1111

Southeastern Tidewater Opportunity Project (STOP)
415 St. Paul Boulevard
Post Office Box 1078
Norfolk, VA 23501
(804) 624-1043

SERVICE AREA: Portsmouth

Portsmouth Redevelopment and Housing Authority
339 High Street
Portsmouth, VA 23704
(804) 399-5261

SERVICE AREA: City of Richmond, Chesterfield, and Herrico Counties

Housing Opportunity Made Equal (HOME)
503 East Main Street
Richmond, VA 23219
(804) 648-0116

Richmond Urban League
101 East Clay Street
Richmond, VA 23219
(804) 649-8407

City of Roanoke Redevelopment and Housing Authority
2624 Salem Turnpike, N.W.
Post Office Box 6359
Roanoke, VA 24017
(703) 983-9281

SERVICE AREA: Roanoke, Botetourt Craig, Rockbridge and Alleghany Counties

Total Action Against Poverty in Roanoke Valley (TAP)
702 Shenandoah Avenue, N.W.
Post Office Box 2868
Roanoke, VA 24001
(703) 345-6781

STATE OF WASHINGTON

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Seattle, WA 98122
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Action Agency
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Tacoma, WA 98409
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Benton Franklin Community
Action Committee
720 West Court
Pasco, WA 99301
(509) 545-4042

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Human Resource Building
51 11th Street
Wheeling, WV 26003
(304) 232-6733

Family Services, Inc.
1007 Fifth Avenue
Huntington, WV 25701
(304) 522-4321

Chriss Cross, Inc.
166 Washington Avenue
Post Office Box 1831
Clarksburg, WV 26301
(304) 623-0921

Consumers Credit Counseling Service
of the Mid-Ohio Valley
2715 Murdoch Avenue, R-4
Parkersburg, WV 26101
(304) 485-3141

STATE OF WISCONSIN

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SERVICE AREA: Milwaukee County

Inner City Development Project
North Office
2803 North Teutonia Avenue
Milwaukee, WI 53206
(414) 265-7410

Milwaukee United for Better
Housing, Inc.
3660 North Teutonia Avenue
Milwaukee, WI 53206
(414) 445-6677

Westside Home Buyer's Clinic
3209 W. Highland Boulevard
Milwaukee, WI 53208
(414) 933-2300

Lake Superior Self-Help Homes, Inc.
514½ West 2nd Street
Ashland, WI 54809
(715) 682-3535

SERVICE AREA: Rock County

Community Action, Incorporated
2300 Kellogg Avenue
Janesville, WI 53545
(608) 755-2476

The Racine/Kenosha
Community Action Program
72 Seventh Street
Racine, WI 53403
(414) 637-8377

The Racine/Kenosha
Community Action Program
2300 63rd Street
Kenosha, WI 53140
(414) 657-0840

[FR Doc. 89-11253 Filed 5-12-89; 8:45 am]
BILLING CODE 4210-27-C

Federal Register

Monday
May 15, 1989

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 36

Noise Standards; Limits on the Growth of Noise From Certain Airplanes and Airplane Types; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 36

[Docket No. 25303, Amdt. No. 36-17]

RIN 2120-AB50

Noise Standards; Limits on the Growth of Noise From Certain Airplanes and Airplane Types

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule revises noise certification standards to ensure that aircraft certificated within certain noise level groups or "stages" remain within those stages. This rule applies to large transport category aircraft and to turbojet powered aircraft regardless of category and prohibits modification of individual airplanes and whole airplane types which result in increased noise beyond the limits of an airplane's certificated stage. While the rule does not restrict airplane changes that result in decreased noise, it does prohibit any re-modification of an airplane which would return it to its original noise level.

DATES: Effective date of this amendment is August 14, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Steven R. Albersheim, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-3560.

SUPPLEMENTARY INFORMATION:

Synopsis of the Final Rule

Part 36 of the Federal Aviation Regulations (14 CFR Part 36) contains noise standards for aircraft type and airworthiness certification. The noise standards applicable to large transport category airplanes and to turbojet powered airplanes regardless of category prescribe three broad groups of noise levels labelled Stage 1, State 2, and Stage 3, with Stage 1 being the noisiest and Stage 3 the quietest. Although Part 36 allows amendment of airplane type certificates for airplane types and their derivatives within a noise stage and to quieter noise stages, it generally does not allow recertification to an increased noise level. Exceptions have been made for Stage 2 airplanes which have voluntarily been brought into compliance with the Stage 3 (quietest) requirements. Since these "voluntary" Stage 3 airplanes were only required to meet Stage 2, Part 36 currently allows them and their derivatives to become Stage 2 airplanes again. The FAA is amending Part 36 to require that airplanes brought into compliance with Stage 3 remain within that Stage after the effective date of the rule.

Part 91 (14 CFR Part 91) contains the general operating rules applicable to individual airplanes. In the NPRM, the FAA proposed to modify the operating rules to prohibit aircraft from operating as either a Stage 2 or 3 aircraft at the discretion of the operator. After full consideration of the comments submitted to the docket, the FAA has decided that such an amendment to Part 91 would impose a significant cost on affected carriers which would not be balanced by an appreciable reduction in the cumulative noise levels. Accordingly, this final rule does not amend Part 91.

Further, these amendments do not affect the definition of "acoustical change" found in § 21.93 of this chapter. Specifically, the 90-day exclusion from compliance with Part 36 for certain temporary acoustical changes remains intact. Since temporary changes in type design do not change the acoustical stage designation of an aircraft, the 90-day exclusion cannot be used to circumvent the intent of the proposal by permanently increasing the noise of an aircraft.

Regulatory History

In 1969, the FAA adopted FAR Part 36 to regulate the noise levels of all newly-designed transport category and jet airplanes. A number of amendments to Part 36 have been adopted to expand its applicability to other aircraft types and to modified versions of existing aircraft. The FAA has been reducing gradually the allowable noise limits for transport category and jet airplanes by adopting noise limits lower than those adopted in 1969. Currently, FAR Part 36 identifies three stages of noise levels, with Stage 1 being the noisiest and Stage 3 the quietest.

In 1976, the FAA adopted Subpart E of Part 91 of the Federal Aviation Regulations to prescribe operating limits for certain U.S.-registered civil subsonic turbojet airplanes with maximum gross takeoff weights greater than 75,000 pounds and with standard airworthiness certificates. Those requirements prohibit the operation, in the United States, of affected airplanes after specified dates unless they have been shown to comply with Stage 2 or Stage 3 noise limits. Part 91 was amended in 1978 to require all civil supersonic airplanes, except Concordes with flight time before January 1, 1980, to comply with the Part 36 noise limits in order to operate in the United States. While Part 36 is designed to gradually tighten the noise standards for type certification of aircraft, Part 91 is designed to achieve quieter aircraft operations in the United States by gradually phasing out noisier aircraft.

The FAA published a notice of proposed rulemaking (52 FR 23143; June 17, 1987) to amend Parts 36 and 91 to revise both noise certification standards and operating rules to ensure that airplanes certificated wtihin certain noise stages would remain within those stages. The proposed rule would prohibit any modification of an individual airplane or an airplane type which would result in increased noise beyond the limits of an airplane's quietest certificated stage. While the proposed rule would not prohibit modifications that result in decreased noise, it would prohibit re-modification of an airplane to return it to its original noise certification level. The proposed rule is in keeping with the FAA's goal of reducing the noise levels of aircraft operating in the United States. A discussion of docketed comments on the proposed rule and the disposition of the issues raised by those comments follows.

Discussion of Comments

Interested persons were afforded the opportunity to participate in the development of all aspects of this rulemaking process by submitting written comments to the public regulatory docket. The period for submitting comments closed September 14, 1987. All comments received have been reviewed and considered in the issuance of this final rule.

Twelve public comments were received in response to the notice (Docket No. 25303) with six in favor of adopting the proposed rule and six opposed; all are discussed below.

The FAA proposed to amend Parts 36 and 91 to ensure that airplanes certificated within certain noise stages remain within those stages. The FAA believed that this action was necessary to prevent the return of Stage 3 versions of Stage 2 airplanes to the noisier Stage 2 levels.

Commenters opposed to the amendment stated that the regulation would prohibit individual airplanes from using Stage 3 certification on an operational basis and then returning to the original Stage 2 certification if that return involved only the removal of an approved Stage 3 gross weight or landing flap limitation. The commenters argued that the proposed rule would not reduce noise levels around airports and,

in some cases, could increase them, since most operators would opt for Stage 2. These commenters concluded that there is no environmental justification for the proposed rule because no benefits could be shown. They also claimed that this rule could significantly affect the resale value of any airplanes which had been permanently modified to Stage 3. They claimed that the loss of revenue to U.S. operators would be significant, since this rule would prohibit them from operating at maximum certificated weight if they ever elected to operate their aircraft as Stage 3. One carrier claimed that over the life of an aircraft, it would suffer an estimated revenue loss of $550 million; another carrier stated that it would have incurred a revenue loss of $20 million in 1987 if the proposed rule were in effect.

Six commenters favored adoption of the rule. They stated that the rule would prohibit air carriers that possess airplanes which were certificated as Stage 3 from sliding back to Stage 2 at their discretion. Such an occurrence is in direct opposition to the expectation of the residents of communities surrounding airports and of airport proprietors that air carriers would gradually shift to an all Stage 3 fleet. In addition, these commenters stated that this amendment to Part 36 is in keeping with the intent of Part 36 and that it effectively prevents erosion of the noise standards.

The FAA agrees with the carriers' comments that the cumulative noise impact from existing aircraft operating in a dual configuration is negligible and that the environmental benefit from stopping such operations would be negligible. Based on the FAA's own environmental analysis, there would be no change in the number of people affected by noise at the 65 busiest airports in the United States if carriers that already have aircraft certificated to operate as either Stage 2 or 3 continue to operate with this type of certification. Since the operating restrictions proposed in 1987 have been withdrawn, there is no cost impact on carriers operating existing aircraft in a dual configuration. Further, there is no cost impact on the manufacturers, since they have indicated that they have no intention of producing any Stage 2 aircraft in the future. Airplanes not dual certificated for operation as either Stage 2 or 3 by the effective date of this rule will be required to remain at Stage 3 airplane after the change in type design. Therefore, those airplanes which do not possess the necessary documentation for Stage 2 or 3 operation in their flight manuals may not operate under such dual configurations. The FAA's actions are in keeping with Section 611 of the Federal Aviation Act which requires the FAA to prescribe standards for the measurement of aircraft noise and sonic boom, and the rules and regulations necessary to provide for the control and abatement of aircraft noise and sonic boom.

Need for the Regulation

Generally, Part 36 requires that an individual airplane, once brought into compliance with the standards of a particular noise stage, remain within that stage. Section 36.7(e)(2)(ii) provides that airplanes required to be type-certificated to Stage 3 must remain at Stage 3. Further, derivatives of a type design must remain within the same stage. However, there are two exceptions: (1) Pursuant to § 36.7(e)(2)(i), an airplane of any stage may be brought into compliance with any quieter stage, and (2) a Stage 2 airplane brought into compliance with Stage 3 standards may presently be returned to Stage 2, as may its derivatives.

To protect persons affected by airplane noise, the FAA is amending Part 36 to bring the Stage 3 acoustical change requirements into conformance with the requirements for other stages. The FAA believes that this is necessary to stop the gradual erosion of the noise standard by a multitude of small modifications to Stage 3 versions of previously Stage 2 airplanes. While the FAA is unaware of any plans to produce additional Stage 2 versions of any Stage 3 aircraft, it would be unfair for the FAA to allow the continuation of a regulatory situation under which small changes in weight, engine power, or acoustical treatment could increase the noise levels beyond the Stage 3 limit.

A similar situation exists concerning other airplanes which, because of the type of noise abatement equipment or because of differences in certificated weights and landing flap configurations, have configurations certificated to either Stage 2 or Stage 3. Each certificated combination is, under FAR Parts 21 and 36, a separate configuration. Because the operators of these airplanes often have a dozen or more configurations available for each airplane, it is difficult for the FAA, affected airports, and the public to accurately gauge the noise of an individual airplane. After careful consideration of the issue, the FAA has determined that airplanes for which this dual certification is in effect on the effective date of this regulation may continue to operate in this mode. However, no new dual certifications will be permitted.

Analysis of Change

A new § 36.7(e)(3) is added for applications for acoustical changes of Stage 3 airplanes which will require Stage 3 airplane types to remain in compliance with the Stage 3 standard.

Regulatory Impact Evaluation

The FAA prepared a regulatory evaluation which is included in the regulatory docket. The evaluation reviews each proposed change to Part 36. The FAA has determined that this Final Rule is consistent with the objectives of Executive Order 12291 as part of the President's Regulatory Reform Program to reduce regulatory burdens on the public. This amendment imposes no additional costs on the Federal government.

This amendment benefits the aviation public by simplifying and standardizing the certification and operational requirements for noise for large transport category airplanes and turbojet powered airplanes regardless of category. In addition, the rule is expected to provide several other benefits to the general public, including an upper limit on the level of noise emission resulting from modification of airplanes of the same general type.

Regulatory Flexibility Determination

The FAA has determined that no small entities, as defined by the Regulatory Flexibility Act, would be affected by the proposed amendments to Part 36. Pursuant to the criteria in FAA Order 2100.14A, September 16, 1986, Regulatory Flexibility Criteria and Guidance, none of the operators who submitted comments to the docket is considered a small entity because each operates more than nine aircraft. In addition, only two aircraft manufacturers are currently producing aircraft which voluntarily meet Stage 3 levels. Each employs more than 75 employees and hence is not considered a small entity under the Regulatory Flexibility Act.

Therefore, it is certified that these amendments will not have a significant economic impact on a substantial number of small entities.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), the FAA has determined that the rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no detailed environmental assessment or

environmental impact statement was required.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this document involves regulations which are not considered to be major under the procedures and criteria prescribed in Executive Order 12291. The rule is considered significant because of important issues of public policy as it relates to Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of the evaluation may be obtained from the person identified in the section entitled **"FOR FURTHER INFORMATION CONTACT."** For the reasons stated in the regulatory evaluation, I certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, these proposals, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 14 CFR Part 36

Aircraft, Noise control, Certification.

Adoption of the Amendments

Accordingly, the Federal Aviation Administration amends Part 36 of the Federal Aviation Regulations (14 CFR Part 36) in part as follows:

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

1. The authority citation for Part 36 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1430, 1431(b), 1651(b)(2), 2121 through 2125; 42 U.S.C. 4321 et seq.; Sec. 124 of Pub. L. 80–473, E.O. 11514, 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

§ 36.7 [Amended]

Section 36.7(e) is amended by adding a new paragraph (3) to read as follows:

* * * * *

(e)* * *

(3) Applications on or after [August 14, 1989.] The airplane must remain a Stage 3 airplane after the change in type design.

* * * * *

Issued in Washington, DC, on May 9, 1989.

Robert E. Whittington,

Acting Administrator.

[FR Doc. 89–11543 Filed 5–12–89; 8:45 am]

BILLING CODE 4910–13–M

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CFR CHECKLIST

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3 (1988 Compilation and Parts 100 and 101)	21.00	[1] Jan. 1, 1989
4	14.00	Jan. 1, 1988
5 Parts:		
1-699	14.00	Jan. 1, 1988
700-1199	15.00	Jan. 1, 1988
1200-End, 6 (6 Reserved)	11.00	Jan. 1, 1988
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210-299	22.00	Jan. 1, 1988
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51-199	14.00	Jan. 1, 1988
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[4] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

[7] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.