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Briefings on How To Use the Federal Register
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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2. The relationship between the Federal Register and Code of Federal Regulations.
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4. An introduction to the finding aids of the FR/CFR system.

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

ATLANTA, GA

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Richard B. Russell Federal Building
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WASHINGTON, DC

WHEN: September 25; at 9:00 a.m.
WHERE: Office of the Federal Register
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1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-24-AD; Amdt. 39-6309]

Airworthiness Directives; British Aerospace Model DH/HS/BH/BAE 125 Series Airplanes, Equipped With Sundstrand Turbomach Titan Gas Turbine Auxiliary Power Units (APU), Model T-62T Series, Installed in the Aft Equipment Compartment of the Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to British Aerospace Model DH/HS/BH/BAe 125 series airplanes equipped with certain APU's, which would require a revision to the Airplane Flight Manual Supplement Limitations Section and the installation of a placard in the cockpit prohibiting the use of the APU during flight, except during an emergency. This amendment is prompted by an FAA inspection of the APU, installed in accordance with a certain Supplemental Type Certificate (STC), in which it was determined that this unit must be restricted to ground use only. This condition, if not corrected, could result in a fire in the equipment compartment, a puncture of the aft pressure bulkhead, and severance of the flight control cables.

DATES: Effective September 28, 1989.

ADDRESSES: This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Pasion, Standardization Branch, ANM-113; telephone (206) 431-2116. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations, to include a new airworthiness directive applicable to British Aerospace Model DH/HS/BH/BAe 125 series airplanes equipped with certain APU's, which requires a revision to the Airplane Flight Manual Supplement Limitations Section and the installation of a placard in the cockpit prohibiting the use of the APU during flight, was published in the Federal Register on April 28, 1989 (54 FR 18303).

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

One commenter concurred with the proposed AD, but suggested that the wording of the required placard and AFM limitation be modified to allow the use of the APU during an emergency. The FAA concurs with this proposal, since the operation of the APU during an emergency, such as a dual generator failure, may enhance the continued safe flight and landing of the aircraft. The final rule has been revised to require wording of the placard and AFM limitation to read "OPERATION OF THE APU DURING FLIGHT IS PROHIBITED, EXCEPT DURING AN EMERGENCY."

Another commenter recommended that the proposed AD be withdrawn since the installation has had an excellent service record. With 15 years and over 1.5 million hours of operation, there has never been reported an uncontained APU failure which resulted in the severance of the control cables, or a fire or puncture of the aft pressure bulkhead. The FAA agrees that this statement is true. However, the FAA has determined that a potential hazard still exists and, by prohibiting the use of the APU during flight, the consequences of a uncontained rotor or fire in the aft equipment compartment will be minimized.

The same commenter also suggested that if the proposal is not withdrawn, it should be modified to allow pilot discretion for in-flight use during officially declared emergency conditions. The FAA concurs and, as discussed above, the final rule has been revised to permit use of the APU during emergency situations.

The third commenter objected to the proposed AD and requested its recision because proper installation of the APU is the responsibility of the installer, and this AD implies that the APU is deficient. Furthermore, the commenter suggested that the APU model be deleted from the AD and that reference to a generic APU on BAe Model 125 series airplanes should be used in lieu of reference to the specific APU model. The FAA does not concur with the suggestion that the proposal be withdrawn. It is not the intent of this AD action to imply that the APU, which has been approved under TSO C77, is deficient. It is the installation of the APU that is deficient and this AD addresses the improper installation of the APU. Further, the FAA does not concur with deleting the make and model of the APU from the applicability of the AD, since they are used in identifying those installations which are affected by this AD. If other installations with different APU models are found to be deficient, the FAA may mandate similar action.

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

It is estimated that 120 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $4,800.

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.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is

not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities, under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model DH/HS/BH/BAe 125 series airplanes certificated in any category, equipped with Sundstrand Turbomach Titan Gas Turbine Auxiliary Power (APU) Unit, Model T-62T Series, installed in the aft equipment compartment of the airplane.

Note.—Installation of the subject APU's has been in accordance with, but are not limited to, the following Supplemental Type Certificates (STC): SA674CE, SA1196EA, SA1143EA, SA44ONE, SA4710SW, SA1176EA, SA1173EA, SA1923SW.

This AD applies to all Sundstrand Turbomach Titan APU installations in the aft equipment compartment. Compliance is required as indicated unless previously accomplished.

To prevent a fire in the aft equipment compartment, puncture of the aft pressure bulkhead, and severance of the control cables, due to an uncontained APU rotor failure, accomplish the following:

A. Within the next 10 days after the effective date of this AD:

1. Revise the Limitations Section in the FAA-approved Airplane Flight Manual (AFM) Supplement to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM Supplement Limitations Section: "OPERATION OF THE APU DURING FLIGHT IS PROHIBITED, EXCEPT DURING AN EMERGENCY."

2. Install a placard next to the APU start switch in the cockpit to state: "OPERATION OF THE APU DURING FLIGHT IS PROHIBITED, EXCEPT DURING AN EMERGENCY."

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

This amendment becomes effective September 28, 1989.

Issued in Seattle, Washington, on August 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-19677 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-54-AD; Amdt. 39-6310]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1-11 200 and 400 series airplanes, which would limit the number of operations at increased cabin pressure differential, and would require repetitive structural inspections of the fuselage, and repair or replacement, as necessary. This amendment is prompted by the determination that airplanes operating at increased cabin pressure differential are more likely to develop fatigue cracking earlier in their service lives than those airplanes operating at normal cabin differential pressures. This condition, if not corrected, could result in the inability of the airplane structure to carry required loads.

DATES: Effective September 28, 1989.

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

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations, to include a new airworthiness directive applicable to British Aerospace BAC 1-11 200 and 400 series airplanes, which limits the number of operations at increased cabin pressure differential, and requires repetitive structural inspections of the fuselage, and repair or replacement, as necessary, was published in the Federal Register on May 30, 1989 (54 FR 22909).

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

The commenter supported the rule.

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

It is estimated that 30 airplanes of U.S. registry will be affected by this AD, that it will take approximately 67 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $80,400.

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.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities, under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the

regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model BAC 1-11 200 and 400 series airplanes, Post-Modification PM2840 and PM3187, or PM4886 (excluding airplanes modified to PM5282, cabin freight door), certificated in any category. Compliance is required as indicated below, unless previously accomplished.

To ensure continued structural integrity, accomplish the following:

A. For airplanes modified for operation to a maximum of 7.75 pounds per square inch (psi) cabin pressure differential, as specified in British Aerospace Alert Service Bulletin 53-A-PM5922, Issue 1, dated January 27, 1987:

1. At or prior to the accumulation of 55,000 landings, or within 15 months after the effective date of this AD, whichever occurs later, perform the inspections specified in paragraph 2.1 of the service bulletin and repeat the inspections in accordance with paragraph 2.1.1 of the service bulletin at intervals shown in Table AA of the service bulletin.

2. At or prior to the accumulation of 60,000 landings, or within 30 days after the effective date of this AD, whichever occurs later, reduce the aircraft maximum cabin pressure differential to 7.5 psi by system modification, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

B. For airplanes modified for operation at cabin pressure differentials above 7.75 psi up to a maximum of 8.2 psi, as specified in British Aerospace Alert Service Bulletin 53-A-PM5922, Issue 1, dated January 27, 1987:

1. For airplanes originally manufactured for operation at cabin pressure differentials above 7.75 psi, at or prior to the accumulation of the number of landings shown for initial inspection in the "NE period" column of Table AA in the service bulletin, or within 15 months after the effective date of this AD, whichever occurs later, perform inspections specified in paragraph 2.2.1 of the service bulletin and repeat the inspections as specified in paragraph 2.2.3 of the service bulletin at intervals shown in Table AA of the service bulletin.

2. For airplanes modifed for operation at cabin pressure differential above 7.75 psi after the airplane entered service, at or prior to the accumulation of the number landings shown for initial inspection in the "NE period" column (obtained using the inspection adjustment graph (page 6) of the service bulletin), in Table AA of service bulletin, or within 15 months after the effective date of this AD, whichever occurs later, perform initial inspections specified in paragraph 2.2.2 of the service bulletin. Repeat the inspections, as specified in paragraph 2.2.3 of the service bulletin, at intervals shown in Table AA of the service bulletin.

3. At or prior to the accumulation of 55,000 landings, or within 30 days after the effective date of this AD, whichever occurs later, reduce the aircraft cabin maximum operating pressure differential to 7.5 or 7.75 psi by modification as specified in paragraph 2.2.4 of the service bulletin, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

4. For airplanes which have had the cabin pressure differential reduced form 8.2 psi to 7.75 psi as specified in paragraph 2.2.6 of the service bulletin, perform repetitive inspections at intervals specified in the "NE period" column in Table AA of the service bulletin.

5. At or prior to the accumulation of 60,000 landings, or within 30 days after the effective date of this AD, whichever occurs later, the airplane cabin maximum operating pressure differential must be reduced to 7.5 psi by modification as specified in paragraph 2.2.7 of the service bulletin, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

6. For airplanes modified for 8.2 psi maximum cabin operating pressure differential and operated for a period in excess of any Table AA inspection threshold in the service bulletin, perform one additional inspection at or prior to the Table AA "NE period" column interval after limiting operation to 7.5 pounds per square inch, as specified in paragraph 2.2.5 of the service bulletin.

C. If defects are found during the inspections required by this AD, prior to further flight:

1. Replace with a serviceable part of the same part number; or

2. For damage within the limits specified in the BAC 1-11 Structural Repair Manual, repair in accordance with the Structural Repair Manual; or

3. Repair in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

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

This amendment becomes effective September 28, 1989.

Issued in Seattle, Washington, on August 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-19678 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD8-89-02]

Drawbridge Operation Regulations; Terrebonne Bayou, LA; Correction

AGENCY: U.S. Coast Guard, DOT.

ACTION: Final rule, correction.

SUMMARY: In notice document 89-15506 appearing on page 27642 in the issue of Friday, June 30, 1989, Amendatory Instruction 2 is corrected to read as follows:

"2. Section 117.505 is amended by removing existing paragraph (c), redesignating existing paragraphs (a) and (b) as paragraphs (b) and (c), respectively, and by adding new paragraphs (a), (d), and (e) to read as follows:"

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, 8th Coast Guard District, (504) 589-2965.

Dated: August 4, 1989.

W.F. Merlin,

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

[FR Doc. 89-19597 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 50

Public Health Service Grant Appeals Procedures

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) revises 42 CFR part 50, subpart D, which establishes an informal procedure for the resolution of certain Public Health Service (PHS) grant and cooperative agreement disputes prior to their submission to the Departmental Appeals Board. A revision of these procedures is necessary in order to bring them into conformance with the Department's rules at 45 CFR part 16 (46 FR 43817, August 31, 1981) which established the requirements and procedures applicable to the Departmental Appeals Board with respect to disputes arising under certain departmental grant and cooperative agreement programs. The major changes consist of the addition of one adverse determination to which the procedure is applicable and the deletion of another in order to eliminate the possibility of confusion arising as a result of the different areas of jurisdiction which are currently reflected by the two sets of regulations.

EFFECTIVE DATE: September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Theodore J. Roumel, Phone: 301/443-1874.

SUPPLEMENTARY INFORMATION: HHS published a Notice of Proposed Rulemaking (NPRM) with respect to the revision of the informal PHS appeal procedures on July 8, 1988 (53 FR 25631). Comments from the public were requested. A single commenter provided several comments, but only one was considered to be relevant to the proposed changes in the regulatory text. That comment pertained to proposed § 50.404(a)(4) which describes the appealable adverse determination being added to the PHS regulations by this revision. That paragraph appeared in the NPRM as follows:

> A denial of a noncompeting continuation award under the project period system of funding where the denial is for failure to comply with the terms of a previous award. This does not apply to denials that are due to the grantee's poor performance or to the unavailability of funds.

The commenter suggested that the last sentence of the above paragraph rendered the paragraph more restrictive than the corresponding provision in the Departmental appeal regulations (45 CFR part 16, appendix A, paragraph (C)(a)(3)) the language of which is identical to the first sentence of the proposed paragraph quoted above.

It was not the intent of PHS to add language which would be interpreted as more restrictive than that in the Departmental regulations. The intent was to add language which would provide clarification as to the scope of the subject provision. Since the added language appears to have caused confusion, it has been deleted. The PHS language with respect to this adverse determination now exactly reflects that in the HHS regulations. In all other respects, except for minor editorial changes, the final rule follows the language of the proposed rule.

Impact Analysis

Executive Order 12291: Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the nationally economy of $100 million or more, or certain other specified effects. The Secretary certifies that these regulations are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

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. The Secretary has determined that this regulation will not have a significant economic impact on a substantial number of small entities and hereby certifies that an initial regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Part 50

Administrative practice and procedure, Grant programs—health, Health care.

For the reasons set forth in the preamble, 42 CFR part 50, subpart D, is revised as set forth below:

Dated: April 12, 1989.

James F. Dickson,

Acting Assistant Secretary for Health.

Approved: August 4, 1989.

Louis W. Sullivan,

Secretary.

Subpart D—Public Health Service Grant Appeals Procedure

Sec.

50.401 What is the purpose of this subpart?
50.402 To what programs do these regulations apply?
50.403 What is the policy basis for these procedures?
50.404 What disputes are covered by these procedures?
50.405 What is the structure of review committees?
50.406 What are the steps in the process?

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); 45 CFR 16.3(c).

§ 50.401 What is the purpose of this subpart?

This subpart establishes an informal procedure for the resolution of certain postaward grant and cooperative agreement disputes within PHS.

§ 50.402 To what programs do these regulations apply?

This subpart applies to all grant and cooperative agreement programs, except block grants, which are administered by the U.S. Public Health Service, including those administered by the National Institutes of Health; the Health Resources and Services Administration; the Centers for Disease Control; the Agency for Toxic Substances and Disease Registry; the Alcohol, Drug Abuse, and Mental Health Administration; the Food and Drug Administration; the Indian Health Service; the Office of the Assistant Secretary for Health (OASH); and the PHS regional offices.

§ 50.403 What is the policy basis for these procedures?

The Secretary of Health and Human Services has established a Departmental Appeals Board for the purpose of providing a fair and flexible process for the appeal of written final decisions involving certain grant and cooperative agreement programs administered by constituent agencies of the Department. The regulatory provision which establishes the circumstances under which the Board will accept an appeal (45 CFR 16.3) provides, among other things, that the appellant must have exhausted any preliminary appeal process required by regulation before a formal appeal to the Departmental Board will be allowed. These regulations provide such an informal preliminary procedure for resolution of disputes within PHS in order to preclude submission of cases to the Departmental Appeals Board before PHS has had an opportunity to review decisions of its officials and to settle disputes with grantees.

§ 50.404 What disputes are covered by these procedures?

(a) These procedures are applicable to the following adverse determinations under PHS discretionary project grants and cooperative agreements (hereinafter both referred to as grants):

(1) Termination, in whole or in part, of a grant for failure of the grantee to carry out its approved project in accordance with the applicable law and the terms and conditions of such assistance or for failure of the grantee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) A determination that an expenditure not allowable under the grant has been charged to the grant or that the grantee has otherwise failed to discharge its obligation to account for grant funds.

(3) A determination that a grant is void.

(4) A denial of a noncompeting continuation award under the project period system of funding where the denial is for failure to comply with the terms of a previous award.

(b) A determination subject to this subpart may not be reviewed by the review committee described in § 50.405 unless an officer or employee of the agency, OASH, or the regional office has notified the grantee in writing of the adverse determination. The notification must set forth the reasons for the determination in sufficient detail to enable the grantee to respond and must inform the grantee of the opportunity for review under this subpart.

§ 50.405 What is the structure of review committees?

The head of each agency or his/her designee shall appoint review committees to review appeals of adverse determinations made by headquarters officials for programs under the jurisdiction of that agency. The Assistant Secretary for Health, or his/her designee, shall appoint review committees to review adverse determinations made by OASH officials and regional officials for programs under their jurisdiction. A minimum of three employees shall be appointed (one of whom shall be designated as chairperson) either on an ad hoc, case-by-case basis, or as regular members of review committees for such terms as may be designated. None of the members of the review committee reviewing any given appeal may be from the office of the responsible official whose adverse determination is being appealed (e.g., project officer, grants specialist, program manager, grants management officer).

§ 50.406 What are the steps in the process?

(a) A grantee with respect to whom an adverse determination described in § 50.404(a) above has been made and who desires a review of that determination must submit a request for such review to the head of the appropriate agency or his/her designee (or in the case of an OASH program or regional office determination, to the Assistant Secretary for Health or his/her designee) no later than 30 days after the written notification of the determination is received, except that if the grantee shows good cause why an extension of time should be granted, the head of the appropriate agency or his/her designee (or in the case of an OASH program or regional office determination, the Assistant Secretary for Health or his/her designee) may grant an extension of time.

(b) The request for review must include a copy of the adverse determination, must identify the issue(s) in dispute, and must contain a full statement of the grantee's position with respect to such issue(s) and the pertinent facts and reasons in support of the grantee's position. In addition to the required written statement, the grantee shall provide copies of any documents supporting its claim.

(c) When a request for review has been filed under this subpart with respect to an adverse determination, no action may be taken by the awarding agency, OASH, or regional office pursuant to such determination until the request has been disposed of, except that the filing of the request shall not affect any authority which the agency, OASH, or regional office may have to suspend assistance or otherwise to withhold or defer payments under the grant during proceedings under this subpart. This paragraph does not require the awarding agency, OASH, or regional office to provide continuation funding during the appeal process to a grantee whose noncompeting continuation award has been denied.

(d) Upon receipt of a request for review, the head of the agency or his/her designee (or, if the adverse determination was made in an OASH program or regional office, the Assistant Secretary for Health or his/her designee) will make a decision as to whether the dispute is reviewable under this subpart and will promptly notify the grantee and the office responsible for the adverse determination of this decision. If the head of the agency or his/her designee (or, if applicable, the Assistant Secretary for Health or his/her designee) determines that the dispute is reviewable, he/she will forward the matter to the review committee appointed under § 50.405.

(e) The agency, OASH, or regional office involved will provide the review committee appointed under § 50.405 with copies of all relevant background materials (including application(s), award(s), summary statement(s), and correspondence) and any additional pertinent information available. These materials must be tabbed and organized chronologically and accompanied by an indexed list identifying each document.

(f) The grantee shall be given an opportunity to provide the review committee with additional statements and documentation not provided in the request for review described in paragraph (b) of this section. This additional submission, which must be organized and indexed as indicated under paragraph (e) of this section, should provide only material that is relevant to the review committee's deliberation of the issues in the case.

(g) The review committee may, at its discretion, invite the grantee and/or the agency/OASH/regional office staff to discuss the pertinent issues with the committee and to submit such additional information as the committee deems appropriate.

(h) Based on its review, the review committee will prepare a written decision to be signed by the chairperson and each of the other committee members. The review committee shall send the written decision with a transmittal letter to the grantee and shall send a copy of both to the official responsible for the adverse determination. If the decision is adverse to the grantee's position, the transmittal letter must state the grantee's right to appeal to the Departmental Appeals Board under 45 CFR Part 16.

[FR Doc. 89-19641 Filed 8-21-89; 8:45 am]
BILLING CODE 4160-17-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-218; RM-6232]

Radio Broadcasting Services; Statesboro, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Radio Statesboro, Inc., *See*, 53 FR 20658, June 6, 1988, substitutes Channel 261C2 for Channel 261A at Statesboro, Georgia, and modifies the license for Station WMCD(FM) to specify operation on the higher powered channel. Channel 261C2 can be allotted to Statesboro in compliance with the Commission's minimum distance separation requirements with a site restriction and can be used at its current transmitter site. The coordinates for this allotment are North Latitude 32–27–21 and West Longitude 81–46–27. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 29, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–218, adopted August 1, 1989, and released August 15, 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. § 73.202(b), the Table of FM Allotments for Statesboro, Georgia, is amended by removing Channel 261A and adding Channel 261C2.

Karl A. Kensinger,

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

[FR Doc. 89–19646 Filed 8–21–89; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 54, No. 161
Tuesday, August 22, 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

Commodity Credit Corporation

7 CFR Part 1405

Loans, Purchases and Other Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The regulations at 7 CFR Part 1405 set forth the general provisions applicable to Commodity Credit Corporation (CCC) loans, purchases and other operations. The amendment made by this proposed rule would provide that CCC will participate in State loan agricultural loan mediation programs with respect to farm facility loans made in accordance with 7 CFR 1474.

DATE: Comments must be received on or before September 21, 1989, in order to be assured of consideration.

ADDRESS: Director, Cotton, Grain and Rice Price Support Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: David Wolf, Program Specialist, Cotton, Grain and Rice Price Support Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013. Telephone: (202) 447–4704.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under United States Department of Agricultural (USDA) procedures implementing Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "not major." It has been determined that the provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises in domestic or export markets.

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

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

CCC makes available nonrecourse price support loans to eligible producers under the provisions of the Agricultural Act of 1949, as amended, and the CCC Charter Act, as amended. These loans are nonrecourse in nature. Accordingly, it is proposed that CCC would not participate in State agricutural loan mediation programs with respect to such loans since these loans may be satisfied in full by forfeiture of the loan collateral to CCC without regard to the market value of the commodity. However, with respect to CCC farm facility loans, which are recourse loans made in accordance with 7 CFR Part 1474, CCC has generally renegotiated the terms and conditions of the loan in order to assist producers, to the extent practicable, to retain possession of the mortgaged facility. Therefore, it is proposed that CCC would participate in State agricultural loan medication programs with respect to loans made in accordance with 7 CFR Part 1474. Accordingly, it is proposed that 7 CFR Part 1405 be amended to provide that CCC would participate in such programs with respect to farm facility loans.

List of Subjects

Loan program/agriculture, Price support programs.

Accordingly, Title 7 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 1405—[AMENDED]

1. Authority citation for 7 CFR Part 1405 is revised to read as follows:

Authority: 15 U.S.C. 714b and 714c.

2. A new § 1405.4 is added to read as follows:

§ 1405.4 State loan mediation programs.

With respect to farm facility loans made in accordance with 7 CFR Part 1474, the Commodity Credit Corporation (CCC) will participate in mediations conducted pursuant to a State's agricultural loan mediation program under the same terms and conditions applicable to agricultural creditors generally and will cooperate in good faith in such mediations by complying with requests for information and analysis, and in presenting and exploring debt restructuring proposals whenever feasible, when that State is and remains a qualifying State as defined in 7 CFR 1946.2(b). CCC will not participate in such mediation programs with respect to commodity price support loans made in accordance with this title.

Signed at Washington, DC on August 15, 1989.

John A. Stevenson,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89–19664 Filed 8–21–89; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Parts 1900 and 1951

Administrative Offset

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Administration Offset regulation. This proposed amendment permits administrative offset against amounts that would otherwise be paid by other Federal agencies, including retirement funds and pension payments, to delinquent FmHA borrowers and other entities indebted to the Agency. The objective is to inform the public of the procedures that will be used by FmHA to exercise administrative offset. The intended effect is to allow the Agency to collect amounts that would otherwise be paid to delinquent borrowers and other debtors.

DATE: Comments must be received on or before September 21, 1989.

ADDRESSES: Send comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348–S, 14th and Independence SW., Washington, DC 20250. All written comments will be available for public inspection during normal working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Bob Nelson, Management Analyst, Farmers Home Administration, U.S. Department of Agriculture, Room 5505, South Agriculture Building, Washington, DC 20250, telephone (202) 475–4705.

SUPPLEMENTARY INFORMATION:

Comments Invited

FmHA will consider all aspects of its administrative offset regulations in this proceeding, and invites comments from interested persons on all factual matters, policy views and considerations, and legal arguments, relevant to the entirety of the subject of the Agency's use of administrative offset to collect debts owed to it and, as well, to the Agency's participation in administrative offsets initiated by other Federal agencies. Comments should not be limited to the specific proposals set out in this notice, since all issues concerning FmHA's use of administrative offset are within the scope of this proceeding. The Agency's final rule may be different from that set out in this proposal, depending on the comments received and on the Agency's internal deliberations.

General Information

The legislative history of the Debt Collection Act of 1982, 31 U.S.C. 3716, evidences public concern that Federal agencies were not taking sufficient action to collect debts owed to them. The Act was designed to facilitate the use of administrative offset, among other techniques, so as to permit agencies to remedy this problem. (See S. Rept. 97–378, 97th Cong. 1st Sess, 1983 U.S. Code, Cong. & Admin. News at p. 3377 *et seq.*)

While the central purpose of the Act was to reduce the amount of uncollected debts to the Government, the Act also requires Federal agencies to establish due process procedures for use in connection with administrative offsets. A situation frequently mentioned in the Congressional discussions on the Act was that of the unpaid student loan in which there had been no contract between the borrower and the Federal creditor agency for a period of several years. In this situation, notice and an opportunity to be heard before the agency took action would avoid surprise to the debtor, permit the debtor to raise any claims he or she might have of mistakes on the agency's part, such as the identity of the debtor and/or prior repayment of, or the amount, the debt. The General Accounting Office-Justice Department Federal Claims Collection Standards, 4 CFR 102.3, provide more detailed guidelines concerning the procedures that agencies must establish and use in connection with administrative offset.

FmHA intends to use the administrative offset procedures that it will establish through this rulemaking proceeding to collect all debts that may be owed to it in the future—including debts whose circumstances fit the Congressional model discussed above, and in which the debtor might have little reason to anticipate the use of administrative offset apart from the notice issued pursuant to these rules. The rules will be most frequently used, however, to recover losses on loan defaults on the Agency's farmer program and single-family housing loans. Because of the provisions of the Consolidated Farm and Rural Development Act, the Housing Act of 1949, and the Agency's regulations governing these programs, farmer and housing program borrowers will have received other notices concerning their overdue payments, and other notices concerning opportunities for debt servicing alternatives, before the Agency uses administrative offset as a collection tool. Thus, much of the procedure set out in these proposed rules may appear to duplicate the process that has already been given in connection with the indebtedness itself and hence legally unnecessary. (The Joint Standards state that agencies need not provide procedural rights in connection with administrative offset if the debtor has been provided those rights pursuant to other statutory or regulatory authority. 4 CFR 102.3(b)(2)(ii).)

Since these rules may also be used in situations other than defaults on farmer program and housing program loans, however, and since establishing different sets of rules to use in different circumstances would be administratively cumbersome, the Agency proposes to establish procedures that will satisfy the requirements of the Debt Collection Act and the Joint Standards even in situations in which the debtor has had no notice or process other than that set out in these proposed regulations.

FmHA is not now using administrative offset to collect debts owed to it, and does not intend to do so until it establishes final rules at the conclusion of this proceeding. The rules presently set out in the Agency's regulations (7 CFR 1951.104–107) were established in late 1986 and 1987 (see 51 FR 42820 *et seq.* (Nov. 26, 1986) and 52 FR 18543 *et seq.* (May 18, 1987)), and the Agency made some use of those regulations until December of 1987 to collect amounts owed to it. Use of administrative offset was less than it might otherwise have been because the Agency could not then accelerate most farmer program borrowers' accounts because of a then-pending injunction, which remained outstanding until February of 1989.

On November 23, 1987, suit was filed in the United States District Court in North Dakota (*Moseank, et al.* v. *Lyng, et al.*, Civil Action No. A1–87–196) complaining, among other things, that the Agency's administrative offset procedures were not in compliance with the Debt Collection Act and other governing law. Plaintiffs sought, among other things, to enjoin further use of the procedures. Since it seemed quite likely at that time that the use of administrative offset would have to be suspended in any event in the very near future because of the enactment of the Agricultural Credit Act of 1987, the Agency stipulated, on December 7, 1987, to refrain from using administrative offset in North Dakota for six months. The Agency thereupon unilaterally extended that policy to all other States by administrative directive. Both the stipulation and the directive were subsequently extended in effect up to and including the present time. Although the Agency's experience in using administrative offset is thus limited, FmHA has drawn two tentative conclusions from that experience that are reflected in changes to its existing rules set out in this proposal.

The first of these is that the use of "emergency" offset—i.e., offset without prior notice to the borrower—is unnecessary. While omitting prior notice is permitted by paragraph 102.3(b)(5) of the Joint Standards, the system of borrower servicing now established under the Consolidated Farm and Rural Development Act, pursuant to the amendments to that Act made by the Agricultural Credit Act of 1987, should permit the identification of instances in which administrative offset is warranted before an "emergency" arises. Moreover, in situations in which the debtor has not had other recent notice of the impending use of offset to collect a debt owed to the Agency, the proposed rules will provide better protection against mistaken use of the offset procedures. Thus the proposed rules

would no longer permit the use of administrative offset without prior notice to the borrower.

Secondly, the Agency's experience has been that only a minority of borrowers respond to a notice of intent to use administrative offset by requesting review or other process. (The Agency's experience in this respect is apparently shared by other Federal agencies. See Administrative Conferences of the United States Recommendation 87–9, *Dispute Procedures in Federal Agencies*, 5 CFR 305.87–9, and the report of consultant Martin B. White, *Offset Procedures under the Debt Collection Act of 1982*, underlying that recommendation. *Administrative Conference of the United States, 1987 Recommendations and Reports, Vol. II*, pp. 939–997.) The proposed rule precludes the use of notice, meetings, and other procedures to unduly postpone the use of offset when no colorable argument exists for so doing by allowing payments to be offset, subject to possible refund, during any administrative review of the decision. Therefore, the Agency tentatively concludes that including the opportunity for a face-to-face meeting with the decision maker as well as a right to make a written presentation, even in situations in which the debtor has had other recent meetings on the same debt, will not in practice create a substantial burden on decision-making officials. Thus the proposed rules provide an opportunity for a meeting with the decision maker, plus the opportunity for an appeal of the process used to initiate the administrative offset, in all cases.

The proposed rules do, however, provide for combining the meeting on offset with any meeting on other debt servicing matters which otherwise would be taking place. Neither the Act nor due process considerations seem to preclude the Agency from allowing the consideration of questions other than those pertaining to administrative offset. See, e.g., *Housing Authority of King County* v. *Pierce*, 701 F. Supp. 844, 850 (DC 1988).

The Debt Collection Act provides that the debtor should be given an opportunity to pay the debt in full before administrative offset is used (31 U.S.C. 3716(a)(4)). The Joint Standards also refer to this right, but subsection 102.3(b)(2)(i), appears to limit it to situations in which the debtor has established reasons why the use of offset would result in undue financial hardship or would be against equity and good conscience. The proposed regulations implement these instructions by giving a debtor the opportunity to make an offer to pay the debt within 30 days, and by including the possibility of obtaining a written agreement to pay the indebtedness, for which security may be required, when the agency has determined not to use administrative offset because of extreme hardship on the debtor.

FmHA is not entirely satisfied with this proposed treatment of this subject, as it applies to the use of offset to collect debts arising from defaults in paying program loans, and is very interested in receiving suggestions from the public on this point. This statutory provision was perhaps adopted with the long-overdue student loan (the situation mentioned in the legislative history and discussed above) in mind. In circumstances in which the debt may be small in relation to the debtor's total income, and in which the debtor may want to avoid suit as much as the agency, a written payment plan may well resolve the matter. In the case of FmHA's program loans, however, the situation may often be extremely different—especially in the case of FmHA's Farmer Program Loans. Before offset is used, the loan will have been accelerated and the borrower already offered a number of forms of debt servicing, including writing down both the principal and interest of the debt to the point at which the borrower can "cash flow". Offset will be initiated only after these forms of debt relief have not worked.

In this situation, it is highly unlikely that the borrow will be able to make an offer to repay the entirety of the debt that any reasonable Agency official could accept as credible. To hold out such an unreal possibility of avoiding offset to borrowers who have already unsuccessfully attempted to resolve their situation by using the Agency's more generous forms of debt relief—and who may be facing the loss of their farm and home through foreclosure—seems pointless and unfortunate. FmHA solicits suggestions on how to better resolve this issue in its rules.

The proposed additions to section 1900.51 of FmHA's rules governing administrative appeals, and proposed subsection 1951.104(i), provide for limited review of decisions to use administrative offset by FmHA's National Appeals Staff. This appeals staff, reporting to the Administrator independently of State officials, was established by FmHA in 1988 pursuant to the Agricultural Credit Act of 1987, enacted January 6, 1988. While the statutory jurisdiction of the National Appeals Staff extends only to adverse decisions under the Consolidated Farm and Rural Development Act—i.e., to program loan decisions—and does not extend to decisions under other laws such as the Debt Collection Act, the agency has tentatively concluded that allowing debtors the right of appeal will assist in ensuring that administrative offsets are used only after the procedural protection proposed in these rules have been given. The review provided, however, is a limited one in that the hearing officers will confined their review to questions of compliance with the regulations and related matters. Decisions that are within the discretion of decisional officers—the decision on whether to decline to use administrative offset because of extreme hardship, for example—will not be reversible on appeal.

Since program borrowers will have been given other notices and opportunities for appeal on issues relating to the debt itself, the proposed appeal on administrative offset would not deal with those matters again, except where the debtor was not a program borrower and thus had not had another opportunity for administrative review of the agency's finding that a debt existed. See proposed § 1951.104(i). This distinction between the issues to be considered on a appeal of an administrative offset and the issues to be considered on the appeal of the agency's intention to accelerate a loan will become important in only a very few situations. Since the Agency ordinarily notifies a deliquent borrower of its intention to use administrative offset at the same time it advises the borrower that it intends to take adverse action—e.g., acceleration—on the underlying loan, the borrower will be able to raise any issues concerning the offset along with any issues concerning the debt itself in one meeting with the decisional official, and one administrative appeal.

In a more recent lawsuit on administrative offset quite similar to the *Moseanko* suit discussed earlier, entitled *Fitzner, et al.* v. *Yeuter*, et al., Case No. CV 6–89–240 (USDA, D, Minn.), filed on April 18, 1989, several farm borrowers seek to enjoin FmHA from using administrative offset to collect delinquent debts. One issue raised by this complaint is whether payments made by sister USDA agencies such as the Agricultural Stabilization and Conservation Service should be exempt from taking by administrative offset on the ground that taking such payments would, as the Joint Standards provide, "substantially interfere with or defeat the purposes of the program authorizing

the payments * * *." 4 CFR 102.3(a)(2). FmHA has tentatively concluded, and here proposes (see proposed subsection 1951.103(e) to provide that payments that are like advance payments to a grantee or the payment of loan proceeds—e.g., the particular payment from the Soil Conservation Service with which the recipient is intended to cover the expenses of planting—would not be subject to offset, while payments representing rent would be so subject. It is FmHA's tentative conclusion that it should issue guidance for its field offices on which major Federal programs will be subject to offset, and the Agency solicits the views of interested members of the public on this idea, and on what other kinds of payments should be specifically included in these rules as being subject to, or not subject to, administrative offset.

Regulatory Reviews

This rule has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined "non-major." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

The programs to which this regulation may apply are listed in the Catalog of Federal Domestic Assistance under the following:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.420 Rural Self-Help Housing Technical Assistance
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facility Loans
10.428 Economic Emergency Loans
10.433 Housing Preservation Grants
10.434 Nonprofit Corporations
10.435 Agricultural Loan Mediation Program

Programs listed under numbers 10.404, 10.406, 10.407, 10.410, 10.417, 10.421, 10.428, and 10.435 are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR 3015, subpart V, 48 FR 29112, June 24, 1983.)

Programs listed under numbers 10.405, 10.411, 10.414, 10.415, 10.416, 10.418, 10.419, 10.420, 10.422, 10.423, 10.427, 10.433, and 10.434 are subject to the provisions of Executive Order 12372 (7 CFR 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985.)

While delinquent debts owed to FmHA remain unpaid, FmHA must borrow money to operate which increases the Federal deficit. Increased Government borrowing causes interest rates to rise and reduces the availability of credit in the country. The Debt Collection Act of 1982 (31 U.S.C. 3701, 3711 and 3716-19), the Attorney General-Comptroller General's joint claims collection standards for agencies (4 CFR parts 101-105) and the Department of Agriculture's debt collection regulations (7 CFR parts 1 and 3) contain specific and detailed requirements which agencies of the Department must follow in order to collect.

List of Subjects

7 CFR Part 1900

Appeals, Credit, Loan programs—Housing and community development.

7 CFR Part 1951

Account servicing, Loan programs—Agriculture, Accounting, Credit, Low and moderate income housing loans—Servicing.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is proposed to be amended as follows:

PART 1900—GENERAL

1. The authority citation for part 1900 is revised to read as follows:

Authority: 7 U.S.C. 1989; 31 U.S.C. 3701; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Adverse Decisions and Administrative Appeals

2. Section 1900.51 is amended in paragraph (b) by adding a new sentence at the end of the paragraph, and by adding a new paragraph (f) to read as follows:

§ 1900.51 General.

* * * * *

(b) * * * The provisions of this part also apply to appeals from decisions by FmHA under subpart C of part 1951 of this chapter to initiate administrative offsets.

* * * * *

(f) Administrative offsets initiated under Subpart C of Part 1951 of this chapter will not be stayed pending the hearing and any further review of the decision to initiate the offset.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

Subpart C—Offsets of Federal Payments to FmHA Borrowers

3. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; CFR 2.70.

4. Section 1951.101 is revised to read as follows:

§ 1951.101 General.

The Federal Claims Collections Act of 1966 as amended by the Debt Collection Act of 1982 and the Deficit Reduction Act of 1984 authorizes Farmers Home Administration (FmHA) to use administrative, salary, and Internal Revenue Service (IRS) offsets to collect delinquent debts. Any money that is or may become payable from the United States to an FmHA borrower or other individual or entity indebted to the Agency may be subject to offset for the collection of a debt owed to FmHA. In addition, money may be collected from the debtor's retirement payments for delinquent amounts owed to FmHA if the debtor is an employee or retiree of a Federal agency, the U.S. Postal Service, the Postal Rate Commission, or a member of the U.S. Armed Forces or the Reserve. Amounts collected will be processed as regular payments and credited to the borrower's account. FmHA will process requests by other Federal agencies to offset amounts otherwise payable to FmHA in accordance with section 1951.102 of this subpart.

5. Sections 1951.102 through 1951.104 are added to subpart C to read as follows:

§ 1951.102 Standards and procedures for administrative offset against FmHA.

(a) Requests made by other Federal agencies to FmHA to offset moneys to be paid to FmHA debtors, including borrowers, contractors and grantees, must contain a written statement of the debt (including, where applicable, a separate statement of principal owed and overdue interest owed as of a given date, and the amount of interest currently running) owed by the debtor to the requesting agency, the due date of the debt, a description of the basis for the debt, and a certification that all of the applicable requirements of 31 U.S.C. 3716 and 4 CFR part 102 have been met. Requests for offset will be sent to the appropriate FmHA State Director.

(b) Upon receipt of a request satisfying the requirements of paragraph (a) of this section, FmHA will effect an administrative offset from moneys payable to the debtor, giving written notice to the debtor, unless the offset might result in substantial interference with, or defeat the purpose of FmHA's program. For example, where the payment sought to be offset is a loan, offset will not be made since the debtor would not be able to use the loan funds for the intended purpose. Similarly, where the payment sought to be offset is an advance payment under a contract to purchase goods, FmHA will not make the requested offset because the debtor would in all likelihood refuse to furnish the goods. However, where the payment is being made to compensate for past performance, the offset will be effected. For example, where the payment sought to be offset is for goods already furnished, the offset could be made without conflict with the purpose of the payment.

(c) If FmHA determines not to effect an offset, a written statement, including the reasons for the refusal, will be sent to the requesting agency and a copy of that statement will be sent to the debtor.

§ 1951.103 Standards for FmHA-initiated administrative offset.

(a) This section explains the procedures to be followed to use administrative offset to collect amounts owed by a debtor to FmHA from payments to be made to the debtor by another Federal agency or from retirement payments to be made to a Federal or military retiree.

(b) Before another Federal agency can be asked to offset any amount, the debtor must have been given at least 30-days notice, on FmHA Form Letter 1951–1, must have been afforded the rights set out in this section, and, if the debtor is an FmHA borrower, the borrower's account must have been accelerated. A delinquent amount does not have to be reduced to judgment or be undisputed before offset can be used, and the payment does not have to be covered by an FmHA security instrument.

(c) Offset will not be used, if, according to State law, the receipt of payments after acceleration has the effect of reinstating the debtor's account. A State supplement will be issued explaining whether offset can be used in each State. Sums received through the use of administrative offset are not considered "payments" as that term is used in 7 CFR 1955.15(d)(3) of subpart A of part 1955 of this chapter.

(d) Administrative offset will be used only where it is feasible. Administrative offset is not feasible where, for example, the cost to the Government of collecting by offset will exceed the amount collectible.

(e) Administrative offset will be used only where it is in the best interests of the Government. It will not be used where it would substantially interfere with, or defeat, the purpose of the paying Agency's program. Examples of this situation are listed in § 1951.103(b) of this subpart. As another example, FmHA will not offset the initial payment for planting expenses under the Conservation Reserve Program (CRP) since an offset would possibly result in the land not being planted for conservation purposes; conversely, it will offset subsequent CRP payment which represent rental income to the debtor. In general, income supplementation and enhancement program payments by ASCS will be subject to offset. The National Office will provide guidance to FmHA County Supervisors as needed on the kinds of payments under other major Federal programs that will not be subject to offset.

(f) The use of administrative offset is limited when debtors have filed for bankruptcy. Before administrative offset is sought for a debtor who is subject to a pending bankruptcy, guidance with respect to each particular case will be sought from the Office of the General Counsel. Debts of debtors which have been discharged in bankruptcy will not be subject to offset.

(g) FmHA will not use offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued, unless facts material to FmHA's right to collect were not known and could not reasonably have been known by the FmHA official(s) charged with the responsibility of servicing the debtor's account until a time less than 6 years before the offset is initiated. Prior to collecting a claim by administrative offset after the 6 year period for bringing a civil action on the claim has expired, the loan servicing official will obtain the concurrence of the Office of the General counsel to pursue the offset.

(h) FmHA will not use administrative offset with respect to debts owed by any State or local government; nor with respect to debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954 (IRS) debts may be offset under the IRS offset procedure in §§ 1951.121 through 1951.127 of this subpart), or the tariff laws of the United States.

§1951.104 Procedures for FmHA-initiated offset.

(a) The use of administrative offset will be initiated by giving notice to the debtor of the intention to use administrative offset. Such notice shall advise the debtors of their rights to:

(1) Inspect and copy their records;

(2) Avoid offset by paying the debt in full within 30 days;

(3) Present any reasons why administrative offset should not be used, including that the amount claimed to be owed is in error, that the use of administrative offset would create an extreme hardship, or that it would be unfair to the borrower for some other reason;

(4) Have a meeting with the decision-making officials, and

(5) Obtain administrative appeal of the decision to use administrative offset.

(b) The debtor will be given 7 calendar days after receipt of the notice to ask to inspect and/or copy his or her records, and 15 calendar days after receipt of the notice in which to:

(1) Make a written submission pursuant to paragraphs (a) (2) and (3) of this section, or

(2) Request a meeting at which the borrower can make such a submission and/or orally raise any matters relevant to the proposed use of administrative offset to collect the amount owed, or

(3) Request immediate administrative appeal of the decision to use administrative offset.

(c) When a debtor cannot, for a good reason, meet the time limits set out in this section, FmHA can, in its discretion, extend the time.

(d) FmHA Form Letter 1951–1 will be used to give the notice required by this section. Notice will be sent to the debtor, by certified mail, return receipt requested, at the debtor's last known address. A duplicate copy will be mailed to the debtor, on the same day,

by ordinary mail. The date of signing of the certified mail receipt will be used to compute the periods for response or, if the certified mail receipt is not signed and returned, the time frame will commence with the third day after the date on which the duplicate was sent.

(e) If the debtor responds by asking for a meeting, it will be scheduled as set forth in 1900–B, and the debtor will be promptly advised in writing of the date, time, and place. If the response also asks to inspect and/or copy records, the response will give the debtor an opportunity, within 5 working days after the receipt of the request, to inspect and/or copy those records. The letter will explain where the records are and when the debtor can inspect and/or copy them. The meeting will be scheduled not less than 3 working days after the date on which the debtor is allowed to inspect and/or copy his or her records. At the meeting the debtor will be given an opportunity to present any evidence or arguments as to why administrative offset should not be used.

(f) If the debtor asks to inspect and/or copy records, but does not ask for a meeting, the debtor should, at the time of record inspection and/or copying, again be offered for meeting so that he or she will have an opportunity to discuss the contents of those records, or any other relevant matter, before FmHA actually begins to use administrative offset. This offer may be made orally and will be documented in the debtor's case file.

(g) Extreme hardship or unfairness to the debtor in using administrative offset are matters that are within the discretion of the FmHA County Supervisor or other decision-making officials. The reasons for decisions on claims of extreme hardship or unfairness will be documented in the debtor's case file. Substantial medical expenses, or the lack of funds (other than those to be offset) for essential family living expenses, especially when the debtor's family includes dependent minor children, are examples of situations in which a decision not to use administrative offset may be justified. In its discretion, FmHA may, as a condition to declining to use administrative offset because of extreme hardship or unfairness, require the debtor to enter into a written agreement concerning payment of the indebtedness and can require adequate security for such agreement.

(h) FmHA will respond promptly to all written or oral requests or presentations made by debtors under this section. Decisions to be made after a meeting with a debtor will be made promptly, and will be promptly communicated in writing to the debtor. If a request not to use offset is denied, either in response to a written submission or to matters raised at a meeting, the letter communicating that decision will also advise the debtor of his or her rights to administrative appeal. Other Federal agencies will not be requested to offset amounts before FmHA has mailed or hand delivered a letter to the debtor communicating its decision in response to any matters raised at a meeting or in response to a submission in writing.

(i) Decisions to use administrative offset are appealable under subpart B of part 1900 of this chapter, and may be reversed only if they are inconsistent with law or regulations. If the debtor is not an FmHA borrower who has had other opportunity to appeal FmHA's determinations on the indebtedness itself, the appeal will include consideration of any issues concerning the debt that the debtor wishes to raise.

6. Section 1951.105 is revised to read as follows:

§ 1951.105 Procedures for taking funds by administrative offset.

(a) *Requesting administrative offsets.* Administrative offset requests to other Federal agencies will be initiated by completing FmHA Form Letter 1951–3 and sending it to any Federal agency likely to have money scheduled for payment to the debtor. The debtor, and the FmHA State Director, will be sent a copy of this form letter when it is sent to the other Federal agency.

(b) *Application of payments, refunds and overpayments for administrative offsets.* (1) Only amounts that are delinquent can be collected by offset. Therefore, if an FmHA Form Letter 1951–3 is submitted to another Federal agency which owes a debtor an amount in excess of the FmHA delinquency, the excess will be remitted to the debtor by the other Federal agency.

(2) Administrative offset payments will be processed in accordance with FmHA Instruction 1951–B, Collections, including depositing the payments in the Concentration Banking System or sending the payments to a wholesale lockbox bank. The offset payments will be applied to the debtor accounts as regular payments.

(3) Refunds of amounts offset, plus interest, will be made promptly, pursuant to the provisions of 7 CFR 1951.13(b) of subpart A of part 1951 of this chapter, if FmHA determines that an amount should not have been offset or that the debtor has won an administrative appeal. The ninety-day Treasury bill rate, as published in exhibit B to FmHA instruction 440.1, in effect on the date the amounts were offset by the creditor agency, will be used to calculate interest payable to the debtor.

(4) The County Supervisor will record all borrowers referred for and/or collected through administrative offset on Form FmHA 1951–16, Detail Report of Administrative Offset. The unpaid interest and unpaid principal amounts referred for offset should be reported only one time when first referred and obtained from FmHA Form Letter 1951–3. Form FmHA 1951–16 will be filed in operational file B. At the close of each quarter, the County Supervisor will consolidate the information reported on Form FmHA 1951–16 into Form FmHA 1951–17, Consolidated Report of Administrative Offset. The consolidated county report will be forwarded to the State Administrative Officer within 5 calendar days after the end of each quarter (e.g., October 5, January 5, April 5, and July 5). If there is no activity for the quarter, a negative report is required. Using Form FmHA 1951–17, the State Administrative Officer will consolidate the reports received from the County Offices. The consolidated state report will be forwarded to the Finance Office, mail code FC–360A, within 10 calendar days after the end of each quarter (e.g., October 10, January 10, April 10, and July 10). If there is no activity for the quarter, a negative report is required.

(c) *Cancellation of administrative offset.* FmHA will promptly cancel administrative offset requests by written notification to every other Federal agency from which administrative offset was requested if, because of debtor payments or any other reason, FmHA is no longer entitled to administrative offset from payments to be made to a debtor.

Dated: July 19, 1989.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 89–19148 Filed 8–21–89; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–NM–135–AD]

Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all Aerospatiale Model ATR42 series airplanes, which would require modification or replacement of certain fuselage and wing structural components. This proposal is prompted by reports of cracking discovered during full-scale fatigue testing of the Model ATR42 airframe. This condition, if not corrected, could result in structural failure of the fuselage or wing.

DATES: Comments must be received no later than October 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-135-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Admnistrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-135-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Directive Générale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on Aerospatiale Model ATR42 series airplanes. During full-scale fatigue testing of the Model ATR42 airframe, cracking was discovered in the fuselage and wing. This condition, if not corrected, could result in structural failure of the fuselage or wing.

Aerospatiale has issued Service Bulletins ATR42-53-0004, Revision 3, dated May 25, 1989; ATR42-53-0023, Revision 2, dated May 25, 1989; ATR42-53-0031, Revision 1, dated May 20, 1989; ATR42-53-0042, dated May 3, 1989; ATR42-57-0010, Revision 1, dated May 20, 1989; ATR42-57-0021, Revision 1, dated May 20, 1989; and ATR42-57-0027, Revision 1, dated May 25, 1989; which describe procedures for modification or replacement of certain fuselage and wing structural components. DGAC France has classified these service bulleting as mandatory and has issued Airworthiness Directive 89-017-017(B)R1 addressing this subject.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require modification or replacement of certain fuselage and wing structural components in accordance with the service bulletins previously described.

It is estimated that 50 airplanes If U.S. registry would be affected by this AD. The entire cost of the modifications and replacements required by this AD would be borne by the manufacturer; therefore, there is no cost impact on U.S. operators.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR42 series airplanes, certificated in any category. Compliance is required prior to the accumulation of 10,000 landings, or within the next 300 landings after the effective date of this AD, whichever occurs later, unless previously accomplished.

To prevent failure of structural components of the fuselage and wing, accomplish the following:

A. For airplane Serial Numbers 003 to 151: Reinforce fuselage frame 26, in accordance with Aerospatiale Service Bulletin ATR42-53-0042, dated May 3, 1989.

B. For airplane Serial Numbers 003 through 032, 034, and 035: Reinforce the fuselage secondary frames, in accordance with

Aerospatiale Service Bulletin ATR42-53-0023, Revision 2, dated May 25, 1989.

C. For airplane Serial Numbers 003 through 059: Perform a cold expansion of the outer wing skin attach fastener holes, in accordance with Aerospatiale Service Bulletin ATR42-57-0010, Revision 1, dated May 20, 1989.

D. For airplane Serial Numbers 003 through 071. Reinforce fuselage frames 24 and 28, in accordance with Aerospatiale Service Bulletin ATR42-53-0004, Revision 3, dated May 25, 1989.

E. For airplane Serial Numbers 003 through 084, 086, 087, and 089 through 093: Perform a cold expansion of attach holes and reinforce wing/fuselage junction fittings, in accordance with Aerospatiale Service Bulletin ATR42-53-0031, Revision 1, dated May 20, 1989.

F. For airplane Serial Numbers 003 through 119: Perform a cold expansion of the wing front and rear spar attach holes, in accordance with Aerospatiale Service Bulletin ATR42-53-0021, Revision 1, dated May 20, 1989.

G. For airplane Serial Numbers 003 through 151: Replace the wing center box, in accordance with Aerospatiale Service Bulletin ATR42-57-0027, Revision 1, dated May 25, 1989.

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

Note:—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirement of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 216 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-19679 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-146-AD]

Airworthiness Directives; Aerospatiale Model ATR42-300 and ATR42-320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes, which would require a one-time inspection of the main landing gear (MLG) actuator fitting bolt holes, and rework of the fitting surface and bolt replacement, if necessary. This proposal is prompted by reports of incorrect perpendicularity between the bolt hole axis and the fitting surface. This condition, if not corrected, could lead to failure of the landing gear actuator attachment fitting bolts, which could result in the inability to retract the landing gear and failure to achieve an adequate climb gradient.

DATES: Comments must be received no later than October 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-146-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Standardization Branch, ANM-113; telephone (206) 432-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-146-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Générale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes. There has been one report of failure of the main landing gear actuator fitting attach bolts due to incorrect perpendicularity between the bolt hole axis and the fitting surface. Failure of the landing gear actuator fitting bolts could lead to inability to retract the main landing gear and failure to attain an adequate climb gradient.

Aerospatiale has issued Service Bulletin ATR42-53-0045, Revision 1, dated April 21, 1989, which describes procedures to inspect the MLG actuator fitting bolt holes for perpendicularity, elongation, and alignment between the bolt hole axis and fitting surface, and rework of the fitting surface and bolt replacement, if necessary. The French DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 89-067-020(B) addressing this subject.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the

United States, an AD is proposed which would require a one-time inspection of the MLG actuator fitting bolt holes for correct perpendicularity, elongation, and alignment between the bolt hole axis and the fitting surface, and rework of the fitting surface and bolt replacement, if necessary, in accordance with the service bulletin previously described.

It is estimated that 50 airplanes of U.S. registry would be affected by this AD, that it would take approximately 20 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $40,000.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR42-300 and ATR42-320 series airplanes, Serial Numbers 003 through 155, which have not been modified in accordance with Service Bulletin ATR42-0023, Revision 1, dated April 20, 1989, certificated in any category. Compliance is required within 90 days after the effective date of this AD, unless previously accomplished.

To prevent failure of the main landing gear (MLG) actuator fitting bolts due to an incorrect perpendicularity between the bolt hole axis and the fitting surface, accomplish the following:

A. Inspect the MLG actuator fitting bolt holes for correct perpendicularity, elongation, and alignment between the bolt hole axis and the fitting surface, in accordance with Aerospatiale Service Bulletin ATR42-53-0045, Revision 1, dated April 21, 1989.

1. If no discrepancies are found, reassemble in accordance with the service bulletin.

2. If discrepancies are found, prior to further flight, rework the fitting surface and replace the bolts in accordance with the service bulletin.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-19680 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-147-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require inspection, repair as necessary, and modification of certain fuselage skin lap joints in the fuselage lower lobe. This action is prompted by reports of cracking detected in the stringer 34 lap joint near the interface with the wing-to-body fairing. This condition, if not corrected, could result in an in-flight depressurization of the airplane.

DATES: Comments must be received no later than September 25, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-147-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Richard Yarges, Airframe Branch, ANM-120S; telephone (206) 431-1925. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals

contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89–NM–147–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

One operator of a Model 747 airplane has reported finding skin cracks at six countersunk fastener locations in the upper row of fasteners of the stringer 34 lap joint immediately forward of the wing-to-body fairing. The cracks were from 0.05 to 0.30 inches in length extending forward and aft, emanating from countersunk fastener holes. The airplane had accumulated 23,926 flight cycles at the time that the cracks were found (however, since the airplane was a short range version of the Model 747 and is operated at a reduced pressure differential, this is equivalent to about 20,000 normal flight cycles). In addition to this incident, a single crack 0.1 inch long was found at one fastener hole in the same location on a fatigue test article at the manufacturer's facility.

It was also noted during the investigation of this cracking incident that some airplanes, including the ones which have exhibited the cracking, did not have the correct fasteners installed in the affected skin joints. Eight of eighteen airplanes checked had countersunk fasteners installed in a location where the design specified protruding head fasteners. The premature cracking at the affected skin joint is attributed to the use of improper fasteners.

In addition, all Model 747 airplanes through line number 765, incorporate countersunk fasteners in the upper row of fasteners in the lap joint directly under the wing-to-body fairing where the fairing joins to the fuselage Premature fatigue cracking can be expected at this location as well on airplanes which do not have adhesively bonded lap joints (airplane line numbers 201 and on), because the skin thickness is too thin to effectively support the use of countersunk fasteners in the upper row.

From the cracking detected in service and from fatigue life calculations, the FAA has determined that detectable fatigue cracking can be expected to develop on some airplanes at about 11,000 flight cycles if the fastener configuration is not modified to incorporate protruding head fasteners in the above mentioned areas. Undetected fatigue cracking could result in eventual rupture of the fuselage shell and in-flight depressurization of the airplane.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2312, dated June 12, 1989, which describes inspection, repair, and modification procedures for the affected fuselage skin lap joints.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection, repair if necessary, and modification of certain fuselage lap joints in the fuselage lower lobe, in accordance with the service bulletin previously described. In addition, operators would be required to submit a report of their inspection results to the FAA.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

There are approximately 550 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 63 airplanes of U.S. registry would be affected by this AD, that it would take approximately 220 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost for parts necessary to modify the airplane is negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $554,400.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained form the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line numbers 201 through 765, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent rapid in-flight depressurization of the airplane cabin, accomplish the following:

A. Conduct a high frequency eddy current (HFEC) inspection of the lower lobe lap joints in the vicinity of the wing to body fairing, in accordance with Boeing Alert Service Bulletin 747–53A2312 dated June 12, 1989, at the following threshold, as applicable:

1. For airplanes that have accumulated less than 11,200 landings as of the effective date of this AD, prior to the accumulation of 11,000 landings or with the next 800 landings after the effective date of this AD, whichever occurs later.

2. For airplanes that have accumulated less than 11,200 and 15,200 landings as of the effective date of this AD, within the next 800 landings after the effective date of this AD, or prior to the accumulation of 15,500 landings, whichever occurs first.

3. For airplanes that have accumulated between 15,201 and 18,200 landings as of the effective date of this AD, within the next 300 landings after the effective date of this AD, or prior to the accumulation of 18,250 landings, whichever occurs first.

4. For airplanes that have accumulated more than 18,200 landings as of the effective date of this AD, within the next 50 landings after the effective date of this AD.

B. Repair any cracks detected, prior to further flight, in accordance with Boeing Alert

Service Bulletin 747–53A2312, dated June 12, 1989.

C. Within 10 days, after the completion of the inspection required by this AD, submit a written report of the location and quantity of all affected countersunk fasteners found, along with aircraft line number and the number of flight cycles, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Prior to the accumulation of 11,000 landings or within the next 3,000 landings after the effective date of the AD, whichever occurs later, modify the airplane by replacing countersunk fasteners in the upper row of the lower lobe lap joints in the vicinity of the wing-to-body faring with protruding head fasteners, in accordance with the procedure described in Boeing Alert Service Bulletin 747–53A2312, dated June 12, 1989.

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

F. For Model 747SR airplanes only, based on continued mixed operation of lower cabin differentials, the inspection and modification compliance times specified in this AD may be multiplied by a 1.2 adjustment factor.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

Issued in Seattle, Washington, on August 14, 1989.

Darrell Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–19681 Filed 8–21–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89–NM–140–AD]

Airworthiness Directives; Fokker Model F–28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Fokker Model F–28 series airplanes, which would require a one-time inspection for cracks of the wing rear spar web plates, between Wing Stations 4790 and 5280, and repair, if necessary. This proposal is prompted by results of manufacturer's fatigue testing, which revealed cracks developing in the rear spar web plate inboard of Wing Station 5280. Undetected fatigue cracks could lead to reduced structural capability of the wing.

DATES: Comments must be received no later than October 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–140–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 431–1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89–NM–140–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Fokker Model F–28 series airplanes. Fatigue testing by the manufacturer has revealed that cracks can develop in the rear spar web plate inboard of Wing Station 5280. These cracks can start in the holes of the rivets and bolts which attach the rear-spar-web plate to the lower girder. Undetected fatigue cracks could lead to reduced structural capability of the wing.

Fokker has issued Service Bulletin F28/57–84, dated April 7, 1989, which describes procedures for an external high-frequency eddy current inspection of the rear spar web plate between Wing Stations 4790 and 5280, and repair, if necessary. The RLD has classified this service bulletin as mandatory, and has issued Airworthiness Directive BLA No. 89–46 addressing this subject.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require a one-time inspection for cracks in the rear spar web plate between Wing Stations 4790 and 5280, and repair, if necessary, in accordance with the service bulletin previously described.

This is considered to be interim action. The manufacturer is currently attempting to determine the extent and nature of the addressed damage, and is developing an appropriate repetitive inspection schedule and/or modification that will preclude the need for repetitive inspections. Once these are developed, the FAA may consider further rulemaking to revise this AD to require additional necessary action.

It is estimated that 48 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,680.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Applies to Model F-28 series airplanes, Serial Numbers 11003 through 11241, and 11991 and 11992, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural capability of the wing due to fatigue cracks, accomplish the following:

A. Perform external high-frequency eddy current inspection of the rear spar web plate between Wing Stations 4790 and 5260, in accordance with Part 1 of Fokker Service Bulletin F28/57-84, dated April 7, 1989, and the following schedule:

1. For airplanes that have accumulated fewer than 45,000 landings, inspect within the next 2,000 landings after the effective date of this AD or prior to the accumulation of 35,000 landings, whichever occurs later.

2. For airplanes that have accumulated 45,000 landings or more but less than 55,000 landings, inspect within the next 1,000 landings after the effective date of this AD.

3. For airplanes that have accumulated 55,000 landings or more, inspect within 500 landings after the effective date of this AD.

B. If cracks are found, repair prior to further flight, in accordance with Part 2 of Fokker Service Bulletin F28/57-84, dated April 7, 1989.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Suite 500, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-19682 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-ANE-28]

Airworthiness Directives; IPECO P/N 3A090-0021-01-2 et al.; Crew Seats

In the matter of Airworthiness Directives; IPECO P/N 3A090-0021-01-2, 3A090-0022-01-2, 3A090-0021-02-2, 3A090-0022-02-2, 3A090-0019-01-1, 3A090-0020-01-1, 3A090-0015-01-1, 3A090-0016-01-1, 3A090-0025-01-1, 3A090-0026-01-1, 3A090-0053-01-1, 3A090-0054-01-1, 3A090-0027-01-1, 3A090-0028-01-1, 3A090-0055-01-1, 3A090-0056-01-1, 3A090-0017-01-1, 3A090-0018-01-1, 3A090-0065-01-1, 3A090-0066-01-1, 3A102-0003-01-1, 3A103-0003-01-1, 3A118-0003-01-1, and 3A118-0004-01-1, crew seats.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt an airworthinesss directive (AD) that would require inspection and modification of certain IPECO crew seats. The proposed AD is needed to prevent failure of the seat back structure which could result in impairment of the pilots ability to control the aircraft.

DATE: Comments must be received on or before November 30, 1989.

ADDRESSES: Comments on the proposal may be mailed in duplicate to Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 89-ANE-28, 12 New England Executive Park, Burlington, Massachustts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: Docket No. 89-ANE-28.

Comments may be inspected at the New England Region, Office of the Assistant Chief Counsel, Room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service bulletins may be obtained from IPECO Inc., 15201 South Prarie Avenue, Lawndale, California 90260, or may be examined in the Regional Rules Docket.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Boston Aircraft Certivication Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to

participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before any final action is taken on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 89-ANE-28. The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that the backs on certain IPECO TSO-C39a crew seats have failed due to cracking. Failure of the backs could result in impairment of the pilot's ability to control the aircraft. Since this condition is likely to exist or develop on other crew seats of the same type design, the proposed AD would require inspection and modification of these crew seats.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves approximately 750 seats with the labor and materials costs to be covered under warranty by IPECO. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Incorporation by reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

IPECO: Applies to IPECO TSO-C39a crew seats, as follows:

Seat part number	Serial No. effectivity	Installed in but not limited to
3A090-0021-01-2	Up to and including 11009.	Boeing 737
3A090-0022-01-2		
3A090-0021-02-2		
3A090-0022-02-2		
3A090-0019-01-1	Up to and including 11115.	Boeing 737
3A090-0020-01-1		
3A090-0015-01-1	Up to and including 11143.	Boeing 757
3A090-0016-01-1		
3A090-0025-01-1	Up to and including 11054.	Boeing 757, 767
3A090-0026-01-1		
3A090-0054-01-1	Up to and including 11105.	Boeing 747-400
3A090-0054-01-1		
3A090-0027-01-1	Up to and including 11072.	Boeing 747
3A090-0028-01-1		
3A102-0003-01-1	Up to and including 11041.	Boeing 747-400
3A090-0055-01-1	Up to and including 11062.	Boeing 747-400
3A090-0056-01-1		
3A103-0003-01-1	Up to and including 11607.	Boeing 747-400
3A090-0017-01-1	Up to and including 10100.	Boeing 747
3A090-0018-01-1		
3A090-0065-01-1	Up to and including 11635.	Boeing 747-400
3A090-0066-01-1		
3A118-0003-01-1	Up to and including 11580.	Dehavilland DHC-7 and DHC-8
3A118-0004-01-1		

Compliance is required as indicated, unless already accomplished.

To prevent failure of the seat back structure, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, unless already accomplished within the last 90 days and, thereafter, at intervals not to exceed 120 days from the last inspection, visually inspect the seat assembly as follows:

(1) Remove seat pan cushion and back cushion from the seat assembly. Adjust the lumbar mechanism to the fully up, fully back position. Recline seat back to full recline.

(2) by looking through the lightening holes in the pan and back structure with a flashlight, examine the base of the back structure in the area where it attaches to the reclining mechanism. This area can be identified by the bracket at the base of the back structure. Return the seat back to its upright position and also examine the base of the back structure from the rear of the seat.

(3) If any cracks or deformation of the seat back structure are found, replace the seat assembly with a serviceable unit before further flight.

(4) When the repairs and modifications required by paragraph (b) have been accomplished, the repetitive visual inspections may be terminated.

(b) Within the next 15 months after the effective date of this AD, perform the repairs and modifications of the IPECO seat assemblies in accordance with the following service bulletins (SB):

IPECO SB No.	Applicable IPECO seat part numbers.
A001-25-29	3A090-0021-01-2 3A090-0022-01-2 3A090-0021-02-2 3A090-0022-02-2
A001-25-30	3A090-0019-01-1 3A090-0020-01-1
A001-25-31	3A090-0015-01-1 3A090-0016-01-1
A001-25-32	3A090-0025-01-1 3A090-0026-01-1
A001-25-33	3A090-0053-01-1 3A090-0054-01-1
A001-25-34	3A090-0027-01-1 3A090-0028-01-1
A001-25-35	3A102-0003-01-1

IPECO SB No.	Applicable IPECO seat part numbers.
A001-25-36	3A090-0055-01-1 3A090-0056-01-1
A001-25-37	3A103-0003-01-1
A001-25-38	3A090-0017-01-1 3A090-0018-01-1
A001-25-39	3A090-0065-01-1 3A090-0066-01-1
A001-25-40	3A118-0003-01-1 3A118-0004-01-1

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance time specified in this AD may be approved by the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on August 11, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-19683 Filed 8-21-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-ANE-05]

Airworthiness Directives; Rolls-Royce plc (R-R) Viper Mk.521, Mk.522, and Mk.601 Model Turbojet Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt an airworthiness directive (AD) that would establish reduced low cycle fatigue (LCF) retirement lives for stage 5 and 6 high pressure compressor (HPC) rotor disks in certain R-R Viper engines. The proposed AD is needed to prevent LCF failure of the subject disks, and possible uncontained engine failure.

DATES: Comments must be received on or before October 30, 1989.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-ANE-05, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: Docket No. 87-ANE-05.

Comments may be inspected at the New England Region, Office of the Assistant Chief Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Karen Grant, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7087.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before any final action is taken on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 87-ANE-05. The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that the published LCF life limit for the stage 5 and 6 HPC rotor disks must be reduced from 14,225 cycles to 12,600 cycles. This determination is based on the findings of small cracks in the hirth coupling root radii of the stage 5 and 6 HPC rotor disks. Additional component rig testing accomplished by Rolls Royce has verified crack initiation in similar disks at life limits lower than originally predicted. Since this condition is likely to exist or develop on other engines of the same type design the proposed AD would require affected parts to be retired from service at or prior to reaching the reduced LCF life limit. Also, a removal from service schedule is provided for affected parts which are close to or at higher cycles than the reduced life limits.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves approximately 99 engines with an approximate total cost of $4,600.00 per engine. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected, since the proposed rule affects only operators using aircraft in which R-R Viper Mk.521, Mk.522, and Mk.601 turbojet engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, and Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Rolls-Royce: Applies to Rolls-Royce plc (R-R) Viper Mk.521, Mk.522, and Mk.601 turbojet engines.

Compliance is required as indicated, unless already accomplished.

To prevent failure of high pressure compressor (HPC) stage 5 and 6 disks, accomplish the following:

(a) Remove from service, HPC stage 5 and 6 disks, with the following part numbers (includes all Modification Standards): Viper Mk.521: V.20492, V.20494, V.27430, V.27433, V.39638, V.39639, V.39642, V.39643, V.39677, V.39678, V.39681, V.39682, V.42057, V.42059, V.46180, V.46181, V.46182, V.46204, V.46205, and V.46206; Viper Mk.522: V.20492, V.20494, V.27430, V.27433, V.39638, V.39639, V.39642, V.39643, V.39677, V.39678, V.39681, V.39682, V.42057, V.42059, V.46180, V.46181, V.46182, V.46204, V.46205, and V.46206; Viper Mk.601: V.42057, V.42059, V.44768, V.44769, V.44780, V.44781, V.46182, and V.46206, as follows:

(1) Disks which have accumulated 12,500 or more cycles since new, on the effective date of this AD, within the next 100 cycles in service.

(2) Disks which have accumulated less than 12,500 cycles since new, on the effective date of this AD, at or prior to accumulating 12,600 cycles since new.

Notes: (1) This action establishes new life limits of 12,600 service cycles for the parts noted above. The new limits are published in Chapter 5 of the Viper Mk.521, Mk.522, and Mk.601 Maintenance and Shop Manuals.

(2) Reference Rolls-Royce plc (R-R) Service Bulletins; No. 72-A154 for Viper Mk.601, and No. 72-A372 for Viper Mk.521 and Viper Mk.522 engines.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(c) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this proposed AD or adjustments to the compliance times specified in this proposed AD, may be approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on August 10, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-19684 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-142-AD]

Airworthiness Directives; Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Mystere Falcon 50 and 900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Mystere Falcon 50 and 900 series airplanes, which currently requires repetitive inspections of the main landing gear (MLG) door emergency release mechanism to detect broken or damaged unlocking pins, and replacement of the pins, if necessary. Broken or damaged unlocking pins, if not corrected, could prevent emergency extension of the MLG. This action would require installation of a modification of the emergency release mechanism of each MLG door uplock unit, which terminates the need for the repetitive inspections. This proposal is prompted by the development of new pin and lever which are not service life limited.

DATES: Comments must be received no later than October 13, 1989.

ADDRESSES: Send comments to the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-142-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. The applicable service information may be obtained from Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608.

This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-142-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On February 24, 1989, the FAA issued AD 89-06-05, Amendment 39-6151 (54 FR 11163; March 17, 1989), applicable to Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Mystere Falcon 50 and 900 series airplanes, to require repetitive inspections of the main landing gear (MLG) door emergency release mechanism to detect broken or damaged unlocking pins, and replacement of the pins, if necessary. That action was promted by reports of the MLG door emergency unlocking pin breaking due to fatigue failure. This condition, if not corrected, could prevent emergency extension of the MLG.

Since issuance of that AD, the manufacturer has developed new pins and levers which are not service life limited. Avions Marcel Dassault-Breguet Aviation (AMD-BA) has issued Service Bulletin F50-208 (F50-32-18) Rev. 1, for the Model Falcon 50 series airplanes, and Service Bulletin F900-52 (F900-32-4) Rev. 1, for the Model Falcon 900 series airplanes, both dated July 25, 1989, which describes procedures for modification of the MLG manual emergency release mechanism of each MLG door uplock unit, which incorporates the improved pins and levers. The Direction Générale de L'Aviation Civile, which is the airworthiness authority of France, has classified both service bulletins as mandatory, and has issued Airworthiness Directive 89-041-007(B)R1 addressing this subject.

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

Since this condition is likely to exist or develop on other airplanes of these same type designs registered in the United States, an AD is proposed which would revise AD 89-06-05 to require modification of the MLG manual emergency release mechanism of each MLG door uplock unit, in accordance with the service bulletins previously described.

The service bulletins identify affected airplanes by serial numbers. These bulletins also specify that airplanes which have installed AMD-BA Modification F900 M1055B or M1055A (equipped with pins, Part Number FGFB793600180), and airplanes that have installed AMD-BA Modification M1596B or M1596A (equipped with pins, Part Number FGFB793600180) are affected. (The pins with that part number have a limited service life of 2,000 landings.) Accordingly, this proposal would revise the applicability of the existing AD by calling out those airplanes as listed in the service bulletins.

The FAA has determined that long term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification requirement is in consonance with that policy decision.

It is estimated that 171 airplanes of U.S. registry would be affected by this AD, that it would take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The estimated cost for parts is $645 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $192,375.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13. is amended by amending Amendment 39-6151 (54 FR 11163; March 17, 1989), AD 89-06-05, as follows:

Avions Marcel Dassault-Breguet Aviation (AMD-BA): Applies to Model Mystere Falcon 50 and 900 series airplanes, as listed in AMD-BA Service Bulletins F50-208, Rev. 1 and F900-52, Rev. 1 dated July 25, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent inability to open the main landing gear (MLG) door for MLG emergency extension, accomplish the following:

A. Prior to the accumulation of 1,000 landings on the MLG door emergency unlocking pin, or within 7 days after March 24, 1989 (the effective date of AD 89-06-05, Amendment 39-6151), whichever occurs later, verify the integrity of the MLG door emergency unlocking system by operating the manual opening system, in accordance with the instructions in the AMD-BA Falcon 50 or 900 series (as applicable) Maintenance Manual, Work Card 480.0, paragraph 3.

1. If the unlocking pin is broken or damaged, replace the pin with a serviceable pin of the same part number prior to further flight.

2. If the unlocking pin is not damaged, repeat the inspection prior to the accumulation of 2,000 landings. Replace broken or damaged pins in accordance with paragraph A.1., above.

B. Upon the accumulation of 2,000 or more landings on the MLG door emergency unlocking pin, repeat the inspection described in paragraph A., above, at intervals not to exceed 50 landings from last inspection. Replace broken or damaged pins in accordance with paragraph A.1., above.

C. Following the replacement of any unlocking pin with a new pin, repeat the inspection required by paragraphs A. and B., above, at the intervals specified. Replace broken or damaged pins in accordance with paragraph A.1., above.

D. Within 120 days after the effective date of this AD, modify the emergency release mechanism of each MLG door uplock unit in accordance with Service Bulletin AMD-BA/F900-52 (F900-32-4), Rev. 1, or AMD-BA/F50-32-4), Rev. 1 both dated July 25, 1989. Accomplishment of this modification constitutes terminating action for the inspections required by paragraphs A. through C. of this AD.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Standardization Branch, ANM-113.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 14, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-19727 Filed 8-21-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ASO-36]

Proposed Revision of Transition Area, Lakeland, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Lakeland, FL, Transition Area in the vicinity of the Plant City Municipal

Airport. A new standard instrument approach procedure (SIAP) has been developed to Runway 9 based on the Plant City nondirectional radio beacon (NDB). The radius of the transition area around the Plant City Municipal Airport would be increased from 5 to 6.5 miles and an arrival area extension would be added west of the airport. The additional controlled airspace is required for protection of instrument flight rule (IFR) aircraft executing the NDB Runway 9 SIAP to the Plant City Municipal Airport. Also, minor corrections would be made to the geographic position coordinates of the Bartow Municipal, Lakeland Municipal, and Winter Haven's Gilbert Airports.

DATES: Comments must be received on or before: October 6, 1989.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures Branch, Docket No. 89–ASO–36, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89–ASO–36." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Lakeland, FL, transition area to enlarge the area around the Plant City Municipal Airport and add an arrival area extension west of the airport. This action is necessary to provide controlled airspace for protection of IFR aircraft executing a recently developed Runway 9 SIAP based on the Plant City NDB. Also, minor corrections would be made to the geographic position coordinates of Bartow Municipal, Lakeland Municipal, and Winter Haven's Gilbert Airports. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Lakeland, FL [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lakeland Municipal Airport (latitude 27°59'18" N, longitude 82°00'56" W); within a 7-mile radius of Bartow Municipal Airport (latitude 27°56'36" N, longitude 81°47'02" W); within a 6.5-mile radius of Plant City Municipal Airport (latitude 28°00'0" N, longitude 82°09'40" W); within 3 miles each side of the 266° bearing from the Plant City NDB (latitude 28°00'08" N, longitude 82°09'23" W), extending from the 6.5-mile radius area to 8.5 miles west of the NDB; within a 6.5-mile radius of Winter Haven's Gilbert Airport (latitude 28°03'25" N, longitude 81°45'25" W); within 2.5 miles each side of the Lakeland VORTAC 071° radial, extending from the 8.5-mile radius area to the Winter Haven's Gilbert Airport 6.5-mile radius area.

Issued in East Point, Georgia, on August 9, 1989.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–19686 Filed 8–21–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ASO–35]

Proposed Designation of Transition Area, Greensboro, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Greensboro, GA, Transition Area. A Standard Instrument Approach Procedure (SIAP) has been developed to serve the Greene County Airpark Airport based on the Greensboro Nondirectional Radio Beacon (NDB). In order to provide controlled airspace for Instrument Flight Rules (IFR) aeronautical operations, it is necessary to lower the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. Concurrent with publication of the SIAP, the operating status of the airport would change from Visual Flight Rules (VFR) to IFR.

DATE: Comments must be received on or before: October 6, 1989.

ADDRESS: Send comments on the proposal in triplicate to:

Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures Branch, Docket No. 89–ASO–35, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89–ASO–35." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR part 71) to designate the Greensboro, GA, Transition Area. This action would lower the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the Greene County Airpark Airport. A new NDB SIAP has been developed for the airport and the additional controlled airspace is necessary for protection of IFR aeronautical operations. If this action is approved, the operating status of the airport would change from VFR to IFR concurrent with publication of the SIAP. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Greensboro, GA, [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Greene County Airpark Airport (latitude 33°35'57"N, longitude 83°08'13" W); within three miles each side of the 072° bearing from the Greensboro NDB (latitude 33°35'41" N, longitude 83°08'27" W), extending from the 6.5-mile radius area to 8.5 miles east of the NDB.

Issued in East Point, Georgia, on August 9, 1989.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–19685 Filed 8–21–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–128–86]

RIN 1545–AK41

Minimum Coverage Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986.

DATES: The public hearing will be held on November 20, 1989, beginning at 10:00 a.m. Outlines of oral comments must be delivered by November 6, 1989.

ADDRESS: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue Service, Attn: CC:CORP:T:R [EE–128–86], Room 4429, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Felicia A. Daniels of the Regulations Unit, Assistant Chief Counsel (Corporate), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224, telephone 202–566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 410(b) of the Internal Revenue Code of 1986. The proposed regulations appeared in the Federal Register for May 18, 1989 (54 FR 21437).

The rules of 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, November 6, 1989, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers thereto.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89–18640 Filed 8–21–89; 8:45 am]

BILLING CODE 4830–01–M

31 CFR Part 103

Office of the Assistant Secretary (Enforcement)

Proposed Amendment to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks and Drafts, Cashier's Checks, Money Orders and Traveler's Checks

AGENCY: Department Offices, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 6185(b) of title VI of the Anti-Drug Abuse Act of 1988, Public Law 100–690, November 18, 1988, prohibits financial institutions from issuing or selling cashier's checks, traveler's checks, money orders and bank checks in amounts of $3,000 or more in currency unless the financial institution verifies and records the identity of the purchaser as the Secretary of the Treasury shall prescribe in regulations. This is in addition to Treasury's authority in 31 U.S.C. 5313 to prescribe reports on domestic coins and currency. Treasury is proposing that financial institutions record this identifying information and maintain a chronological log or logs.

DATE: Comments are due on October 23, 1989.

ADDRESS: Comments should be sent to Amy G. Rudnick, Director, Office of Financial Enforcement, Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Scott, Attorney Advisory, Office of the Assistant General Counsel (Enforcement), (202) 566–9947.

SUPPLEMENTARY INFORMATION: Section 6185(b) of title VI of the Anti-Drug Abuse Act of 1988 added a new section 5325 to the Bank Secrecy Act:

Section 5325 Identification Required to Purchase Certain Monetary Instruments

(a) *In General.* No financial institution may issue or sell a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or other such monetary instruments as the Secretary may prescribe) in amounts or denominations of $3,000 or more unless—

(1) The individual has a transaction account with such financial institution and the financial institution—

(A) Verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual; and

(B) Records the method of verification in accordance with regulations which the Secretary of the Treasury shall prescribe; or

(2) The individual furnishes the financial institution with such forms of identification as the Secretary of the Treasury may require in regulations which the Secretary shall prescribe and the financial institution verifies and records such information in accordance with regulations which such Secretary shall prescribe.

(b) *Report to Secretary Upon Request.* Any information required to be recorded by any financial institution under paragraph (1) or (2) of subsection (a) shall be reported to the Secretary of the Treasury at the request of such Secretary.

(c) *Transaction Account Defined.* For purposes of this section, the term "transaction account" has the meaning given to such term in section 19(b)(1)(C) of the Federal Reserve Act.

The legislative history indicates that Congress clearly felt that there was a need for this provision, because money launderers commonly purchase bank checks, cashier's checks, money orders and traveler's checks for amounts under $10,000. The House Committee Report noted that the only identification records required for persons who conduct currency transactions in amounts under $10,000 are those needed to open an account, thus permitting nonaccountholders to conduct currency transactions below $10,000 without having to identify themselves. The Committee indicated that it expected affected financial institutions to be "fully cooperative and responsive to this law enforcement effort." H. Rep. No. 100–716, 100th Cong., 2d Sess. 7.

Advance Notice of Proposed Rulemaking

On December 23, 1988 (53 FR 51846), Treasury published an Advance Notice of Proposed Rulemaking to solicit comments from the public on how best to implement this provision. In the Advance Notice, Treasury suggested that the best way to implement this new identification requirement might be by requiring a chronological log of the purchase of bank checks, cashier's checks, money orders and traveler's checks. One hundred fifty-six (156) comments were received from the public, primarily affected financial institutions, on how best to put this provision into effect.

Proposed Amendment

The comments covered a wide range of issues. Treasury has considered these ideas in formulating the regulation being proposed today. Treasury is proposing that a new section, "Purchases of bank checks and drafts, cashier's checks, money orders and traveler's checks" be added to the Bank Secrecy Act regulations, 31 CFR part 103. The section would require that all financial institutions subject to the Bank Secrecy Act regulations maintain a monthly

chronological log or logs of their sales of bank checks and drafts, cashier's checks, money orders and traveler's checks to customers who purchase these instruments with currency in amounts of $3,000–$10,000 inclusive. If the purchaser has a transaction account (as that term is defined in § 103.11(p)) with the financial institution where the transaction is being conducted, the following information would be required on the log:

(1) The name of the purchaser;

(2) The number of the purchaser's account;

(3) The date of purchase;

(4) The branch where the purchase occurred; and

(5) The type(s), serial number(s), and the dollar amount of each of the instrument(s) purchased in currency.

In addition, the financial institution would be required to verify that the individual is an accountholder, either through a signature card on file or other record at the financial institution, if the accountholder's identity was verified at the time the account was opened, or at any subsequent time, and that information was recorded on the signature card or other file or record. The method of verification used shall be noted on the log, such as "checked computerized customer file system", or "checked signature card #124–890."

If the accountholder's identity was not verified previously, then the accountholder must be treated as a nonaccountholder for purposes of verification of identity only. The financial institution in that case shall verify the accountholder's name and address by examination of a document that contains the name and address of the purchaser and normally is acceptable within the banking community as a means of identification when cashing checks for nondepositors, and shall record that specific identifying information on the log (*e.g.*, State of issuance and number of driver's license). Because a credit card normally does not contain a name and address of the credit card holder, a credit card alone generally would not be an adequate form of identification. The financial institution then may add that identifying information to its records so that the accountholder need not be required to produce identification for subsequent purchases of these instruments.

If the purchaser is a nonaccountholder, then the financial institution shall record the following information on the log:

(1) The name and address of the purchaser;

(2) The social security number of the purchaser, or if the person is an alien without a social security number, the purchaser's alien identification number;

(3) The date of birth of the purchaser;

(4) The date of purchase;

(5) The branch where the purchase occurred;

(6) The type(s), serial number(s) and dollar amount of the instrument(s) being purchased;

(7) For cashier's checks and bank checks or drafts, the payees on the instrument(s) purchased;

(8) The amount of the purchase in currency; and

(9) If the individual is purchasing the instrument for a third person, the name of the person on whose behalf the instrument is being purchased and the account number of that third party if the third person is an accountholder at the institution. If the third person is not an accountholder, then the name, address and social security number, taxpayer identification number or alien identification number of the third party shall be noted on the log.

In addition, for all nonaccountholders, the financial institution shall verify the purchaser's name and address by examination of a document that contains the name and address of the purchaser and normally is acceptable within the banking community as a means of identification when cashing checks for nondepositors, and record that specific identifying information on the log (*e.g.*, State of issuance and number of driver's license). Again, because of credit card normally does not contain a name and address of the credit card holder, a credit card alone generally would not be an adequate form of identification.

Contemporaneous purchases of the same or different types of instruments totaling $3,000 or more would be treated as one purchase. Contemporaneous means originating, existing or happening at the same time. In addition, Treasury is using its general Bank Secrecy Act authority under 31 U.S.C. 5313 to propose that multiple purchases during the same business day by the same person be treated as one purchase if an individual employee, officer, director or partner of the financial institution has knowledge that the purchases have taken place or there is knowledge on the part of the financial institution's computer system that the purchases have taken place. Financial institutions do not have to purchase new hardware or software computer system to comply with this requirement. They may, but are not required, to change any of their computer programs or manual systems presently in place.

The financial institution may keep a single centralized chronological log or it may maintain individual chronological logs by branch. A separate chronological log for each type of instrument sold or issued also is permissible. If the financial institution maintains individual logs by branch, the financial institution must send those logs to a central location by the fifteenth day after the end of the calendar month for which the log was compiled. The logs need not be integrated with each other; they merely must be kept in one place. This will make it easier for both the financial institution and the Treasury Department when it requests information from the financial institution about its sales of these instruments.

Finally, the proposed regulation states that the Treasury Department may request the information at any time. The financial institution must provide the information, whether the log is at the central location or still is at the branch, even though the information is not required to be forwarded to the centralized location until fifteen days after the close of the calendar month.

Need for a Log

Treasury considered alternatives types of logs suggested in the comments to the Advance Notice. These alternatives included compiling a quarterly or yearly report, keeping the information on a copy of the instrument, or requiring a new standardized form. After considering these alternatives, Treasury decided to propose that financial institutions maintain a chronological log or logs by institution or branch because this alternative provided the most effective method of keeping the information required by the Secretary under section 5325 in one place, and easily accessible by both the financial institution and the Treasury Department. At the same time, it permits some flexibility for the financial institutions. Recording the information only on a copy of the instrument itself in many instances would force a financial institution to sift through thousands of documents from its many branches in order to comply with a request for the information from the Treasury Department. Also, while financial institutions may maintain copies of some of the money orders, traveler's checks, bank checks or drafts or cashier's checks they sell or issue, they do not maintain copies of all the noted instruments they sell or issue, and, indeed, may keep different kinds of records for each of the instruments included. A quarterly or yearly report

also was rejected because the information would not be as readily accessible by Treasury as a monthly log. Finally, Treasury rejected the idea of requiring financial institutions to use a standardized form because it believes that financial institutions should be given some flexibility in the way the information is recorded and the format of the required information. Thus, each financial institution would be free to develop its own standardized form for internal use, if it so desired.

Treasury wishes to minimize any delay in the completion of transactions or the holding up of customer lines while the financial institution completes a log entry. The required information may be noted on a copy of the instrument or other record associated with the instrument, and later transferred to a log after the purchase is concluded, at the end of the day, or, if kept at a branch, at the end of the month before the logs are sent to the centralized location. For example, many banks sell cashier's checks and require the purchaser to fill out an application prior to issuing the check. The required information could be noted on the application. After the customer leaves, the information could than be transferred to the log. Or, if it is a branch bank that maintains its own log and sends its logs to a centralized location, it could prepare the log at the end of the month prior to forwarding it to the bank's centralized location.

Financial institutions should be aware, however, that Treasury has the right to request this information at any time. Thus, if Treasury requests information on sales of these instruments at an institution that records the information initially on another type of record and then transfers it to a log at a later date, the financial institution will have to be able to retrieve that information at any time after the purchase, even if it is not entered yet on the log.

For those financial institutions that keep branch log or logs, the logs may be kept at the branch during the calendar month. The logs must be sent to the financial institution's centralized location within fifteen (15) days after the end of the month.

The logs of purchases do not need to be formatted in any particular way, as long as all the required information is contained on the log. Some financial institutions may choose to maintain logs with the name of the branch, the date of purchase, and/or the type of instrument at the top of each page of the log; if so, then that information does not need to be repeated for each individual purchase.

In addition, financial institutions may maintain separate logs for each different type of instrument. The logs need not be integrated, at the branch level or at the centralized level, as long as the logs are all kept in one centralized place at the financial institution. For financial institutions that have branches all over the country, such as a telegraph or traveler's check company or a national securities dealer, the financial institution may centralize the logs by State, as opposed to one place for the entire country. However, a list of all such locations must be made available to the Treasury Department upon request.

Instruments and Transactions Covered

Treasury is proposing that purchases of all types of official bank checks and drafts be included in the identification requirement not just those that a bank may officially label "bank check" or "cashier's check." Foreign drafts, so-called "New York" drafts and Treasurers checks all are types of bank checks and, hence, they specifically are included within the requirements of this section.

In addition, in reliance on Treasury's authority in 31 U.S.C. 5313, the proposed regulation would cover all types of currency used to purchase these instruments, not just "United States coin and currency" as noted in section 5325. This would conform the proposed regulation more closely to the present definition of "currency" in the Bank Secrecy Act regulations, 31 CFR 103.11(d), and would close a potential loophole whereby purchasers could circumvent the requirements of this section merely by using foreign currency to purchase these instruments. Financial institutions should note that proposed regulation is applicable only to currency purchases of these instruments, and does not include debits to accounts or purchases with checks.

The proposed regulation is applicable to all contemporaneous purchases of all types of the instruments listed in the proposed regulation. Contemporaneous means occurring in the same period of time. This means that currency purchases totaling between $3,000 and $10,000 inclusive that occur at the same time of the same type of instrument (*e.g.*, two $2,500 currency purchases of traveler's checks) would be included as well as purchases that occur at the same time of different types of instruments totaling between $3,000 and $10,000 inclusive (*e.g.*, a $5,000 currency purchase of a $2,500 cashier's check and $2,500 in traveler's checks).

In addition, Treasury is using its authority under 31 U.S.C. 5313 to propose that the regulation also cover currency purchases of instruments totaling between $3,000 and $10,000 inclusive within the course of a business day if a financial institution has knowledge that this has occurred. Treasury feels that this is necessary to avoid easy evasion of the identification requirement by those who simply lower their purchases to below $3,000 and continue to make repeated purchases of these instruments in currency during the course of a business day at the same financial institution. This proposal does not require a financial institution to purchase computer systems, or purchase additional hardware or software systems for their existing computers in order to comply. If the financial institution does not have a computer or manual system that would capture that information, the financial institution instead will have to rely on the knowledge of individual employees, officers, directors or partners of multiple purchases.

For example, if a customer goes to different counters in the financial institution in order to purchase multiple bank checks or drafts, cashier's checks, money orders or traveler's checks and an employee at the financial institution knows that the customer is purchasing or has purchased several different types of instruments at different windows during one business day, those transactions must be aggregated and the identification requirement complied with if the total purchases are $3,000 or more in currency. This knowledge may come about because an employee sends the customer to several windows in order to make the purchases, or assists in making the different purchases for the customer while the customer waits. There also may be situations where an employee observes a customer come into the financial institution more than once during one business day and make currency purchases totaling between $3,000 and $10,000 inclusive of several of these instruments. Because the employee in that situation has knowledge of the multiple transactions, the financial institution must obtain identification before completing the last transaction.

Exemptions Prohibited

Some commenters to the Advance Notice of Proposed Rulemaking requested that Treasury permit exemptions to the identification requirements in certain instances. Treasury will not permit any exemptions to the requirements. The exemptions to the Bank Secrecy Act reporting requirements that now exist generally

are for transactions affecting accounts. Transactions that would be subject to this identification requirement are currency purchases of these instruments and generally will not affect any account. Treasury sees no need to expand the exemption privilege in this instance.

Identification Requirements

In identifying accountholders, a financial institution will be permitted to check its records or files, including its computer system, to verify that the person conducting the purchase indeed is an accountholder and to note the method of verification, *e.g.*, "checked computerized customer file records" or "checked signature care #123–67". However, the financial institution may rely on its record, file or computer system only if the accountholder's identification was verified at the time the account was opened, or at any subsequent time thereafter, and that information was recorded in the financial institution's filed or records. Thus, in order to rely on the system, a financial institution must have verified the identity of the accountholder at the time the account was opened, or at any other subsequent time, by examination of a document containing a name and address, normally acceptable within the banking community as a means of identification when cashing checks for nondepositors (such as a driver's license), and record that specific identifying information used in verifying the customer's identity in the financial encourages financial institutions that open accounts for customers to verify the identity of the person at the time the account is opened.

If a financial institution has not identified its accountholders at the time the account is opened or at any subsequent time, then it must follow the procedures required for identifying nonaccountholders, which are similar to the requirements of 31 CFR 103.27. This means that the financial institution must examine a document that contains the name and address of the purchaser and that normally is acceptable within the banking community as a means of identification when cashing checks for nondepositors, and record that specific identifying information on the log (*e.g.*, State of issuance and number of a driver's license.) As noted above, because a credit card normally does not contain the card holder's name and address, a credit card alone generally will not be a sufficient means of identifying the purchaser. Once the financial institution does obtain identifying information, however, it may add this information to the signature card or other record and may rely upon it in the future. The financial institution does not have to obtain the other information required for purchases by nonaccountholders, such as social security numbers or dates of birth.

In addition, because Treasury is aware that many money launderers hire others to make these purchases for them, Treasury is using its authority under 31 U.S.C. 5313 in order to require instruments for another person with $3,000 to $10,000 inclusive in currency, the financial institution must record the name and account number of that third party, or if the third party is not an accountholder, then the financial institution will record the name, address and the social security number, taxpayer identification number or alien identification number of the third person.

Treasury notes that not all financial institutions offer transaction accounts within the definition in section 103.11. Indeed, most nonbank financial institutions, such as check cashers and sellers of money orders, do not. Therefore, Treasury expects that most nonbank financial institutions will have to use the nonaccountholder identification procedures whenever they sell bank checks or drafts, cashier's checks, money orders or traveler's checks to purchasers doing so with $3,000 to $10,000 inclusive in currency.

Miscellaneous Issues

The record retention period for these records would be five years which is the same retention period for all Bank Secrecy Act records. 31 CFR 103.38(d).

Some commenters to the Advance Notice suggested that there may be Right to Financial Privacy Act problems with these logs in that the logs might contain information on purchasers other than those covered by the regulation, for example, currency purchases of these instruments totaling less than $3,000. Treasury notes that to the extent that a financial institution adds extraneous material to the log, it is the financial institution's responsibility either to delete the information not required by the regulation prior to providing the information to Treasury or to assume any risk in including the information. Treasury notes that recording this information for purchases over $10,000 and providing the information to Treasury upon request does not violate the Right to Financial Privacy Act, because that information already is required to be reported to the Treasury Department on a Currency Transaction Report pursuant to § 103.22.

Some commenters to the Advance Notice asked how this requirement would interact with the reporting requirements of section 103.22. For example, if a person makes a $6,000 currency deposit to his checking account and at the same time purchases a $7,000 cashier's check with $7,000 in currency, financial institutions wondered whether they would be required to file a Currency Transaction Report and maintain a record of the purchase of the cashier's check. Under 31 CFR 103.22(a), the financial institution would be required to file a Currency Transaction Report because the transaction involves currency in excess of $10,000. In addition, the financial institution would be required to record the information necessary to complete the log. This is because the reporting and recordkeeping regulations are separate requirements and both requirements must be observed.

Treasury believes that the information required by the new regulation will be useful in identifying individuals who conduct currency transactions to evade the reporting requirements by purchasing instruments below $10,000. This information is useful to law enforcement officials who are conducting money laundering and other investigations. In addition, it is believed that by requiring identification for purchases at $3,000 and above, money laundering will be deterred.

Treasury encourages financial institutions to report suspicious activity by persons that the financial institution believes may be taking actions to evade the reporting requirements of § 103.22 or the identification requirements of this regulation. Some examples of activity that might be considered suspicious include a reluctance on the part of the customer to produce identification, a customer taking back part of the currency to reduce the purchase to below $3,000, or a customer coming into the same institution on consecutive or near-consecutive business days, as observed by the financial institution employee, and purchasing bank checks, cashier's checks, traveler's checks or money orders in amounts of less than $3,000. *See* BSA Administrative Ruling 88–1, dated June 22, 1988, printed at 53 FR 40062 (October 13, 1988). Financial institutions do not want to be abused by the money laundering or the tax evader; Treasury urges financial institutions to know their customers to avoid becoming involved inadvertently in illegal activity.

Finally, financial institutions should note that they do not have to institute any new procedures or change their present procedures to comply with this requirement until a Final Rule is effective.

Submission of Comments

Treasury requests comments from all interested persons concerning the proposed amendments. While Treasury welcomes comments on all aspects of the proposal, it particularly is interested in receiving comments on the following issues:

—What procedures do financial institutions follow now in issuing or selling bank checks or drafts, cashier's checks, money orders or traveler's checks? To what extent are the procedures different if the purchaser is an accountholder as opposed to a nonaccountholder?

—Do financial institutions have restrictions on the number or amounts of instruments that they will sell to a customer, either an accountholder or nonaccountholder, on one business day for currency?

—How long, from the date the final regulation is issued, will financial institutions need to implement this regulation?

All comments received before the closing date will be carefully considered. Oral comments must be reduced to writing and submitted to Treasury to receive consideration. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. The Treasury Department will not recognize any materials or comments, including the name of any person submitting comments, as confidential. Any material not intended to be disclosed to the public should not be included in comments. All comments submitted will be available for public inspection during the hours that the Treasury Library is open to the public. The Treasury Library is located in Room 5030, 1500 Pennsylvania Ave., NW., Washington, DC 20220. Appointments must be made to view the comments. Persons wishing to view the comments submitted should contact Dorothy Lane of the Office of Financial Enforcement at (202) 566-8022.

Executive Order 12291

This proposed rule, if adopted as a final rule, is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. It will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

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 and the burden estimate should be directed to the Office of Financial Enforcement at the address noted above or to the Office of Management and Budget, Paperwork Reduction Project (1505-0063), Washington, DC 20503.

The collections of information in this regulation are required and authorized by 31 U.S.C. 5313 and 31 U.S.C. 5325. This information is required by Treasury to identify persons purchasing bank checks and drafts, cashier's checks, money orders and traveler's checks with currency between $3,000 and $10,000 inclusive. This information will be used to detect and deter money laundering and other criminal, tax and regulatory violations. The likely respondents/recordkeepers are financial institutions who sell or issue bank checks or drafts, cashier's checks, money orders or traveler's checks to persons who purchase these instruments with between $3,000 and $10,000 inclusive.

Estimated number of recordkeepers: 30,000.

Estimated average annual burden per recordkeeper: 7.5 hours.

Estimated record retention period per recordkeeper: 5 years.

Estimated total annual recordkeeping burden: 225,000 hours.

Estimated number of respondents: 5,000.

Estimated hours per response: .33 hour.

Estimated annual frequency of responses: 1.

Estimated total annual response burden: 1,650 hours.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement). However, personnel from other offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Proposed Amendment

For the reasons set forth below in the preamble, it is proposed to amend 31 CFR Part 103 as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 would continue to read as follows:

Authority: Pub. L. 91-508, Title I, 84 Stat. 1114 (12 U.S.C. 1730d, 1829b and 1951-1959); and the Currency and Foreign Transactions Reporting Act, Pub. L. 91-508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311-5326).

2. It is proposed to add after section 103.27 a new § 103.28 to read as follows:

§ 103.28 Purchases of bank checks and drafts, cashier's checks, money orders and traveler's checks.

(a) Each financial institution shall maintain a chronological log for each calendar month on which shall be recorded the following information for each issuance or sale of bank checks or drafts, cashier's checks, money orders or traveler's checks to any individual purchaser which involves currency in amounts of $3,000–$10,000 inclusive:

(1) If the purchaser has a transaction account with the financial institution:

(i)(A) The name of the purchaser;

(B) The number of the purchaser's account;

(C) The date of purchase;

(D) The branch where the purchase occurred;

(E) The type(s) of instrument(s) purchased;

(F) The serial number(s) of each of the instrument(s) purchased; and

(G) The dollar amount of each of the instrument(s) purchased in currency.

(ii) In addition, the financial institution shall verify that the individual is an accountholder, either through a signature card or other file or record at the financial institution, if the accountholder's name and address were verified at the time the account was opened, or at any subsequent time, and that information was recorded on the signature card or other file or record. The method of verification used shall be noted on the log. If the accountholder's identity has not been verified previously, then the financial institution shall verify the accountholder's identity

by examination of a document that contains the name and address of the purchaser and normally is acceptable within the banking community as a means of identification when cashing checks for nondepositors, and shall record the specific identifying information on the log (*e.g.*, State of issuance and number of driver's license).

(2) If the purchaser does not have a transaction account with the financial institution:

(i)(A) The name and address of the purchaser;

(B) The social security number of the purchaser, or if the purchaser is an alien and does not have a social security number, then the alien identification number;

(C) The date of birth of the purchaser;

(D) If the individual is purchasing the instrument(s) on behalf of another person, the name of the person on whose behalf the instrument is being purchased and the account number of that third party; if there is no account number, then the name, address and social security number, taxpayer identification number, or alien identification number of such person;

(E) The date of purchase;

(F) The branch where the purchase occurred;

(G) The type(s) of instrument(s) purchased;

(H) The serial number(s) of each of the instrument(s) purchased;

(I) The dollar amount of each of the instrument(s) purchased;

(J) The payee(s) on each of the instrument(s) purchased (for cashier's checks and bank checks and drafts); and

(K) The amount of the purchase in currency.

(ii) In addition, the financial institution shall verify the purchaser's name and address by examination of a document that contains the name and address of the purchaser and normally is acceptable within the banking community as a means of identification when cashing checks for nondepositors, and shall record the specific identifying information on the log (*e.g.*, State of issuance and number of driver's license).

(b) Contemporaneous purchases of the same or different types of instruments totaling $3,000 or more shall be treated as one purchase. Multiple purchases during one business day totaling $3,000 or more shall be treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.

(c) The financial institution may maintain a single centralized chronological log or it may maintain separate chronological logs by branch. A financial institution also may keep a separate chronological log for each type of instrument sold. If the financial institution maintains a separate chronological log or logs for each branch, all of the branch logs for a calendar month must be sent to a centralized location by the fifteenth (15th) day after the end of the calendar month for which the log was compiled. Financial institutions with branches in more than one State may centralize the logs by State. A list of the centralized locations and branches shall be available to the Secretary upon request.

(d) Chronological logs shall be retained by the financial institution for a period of five years.

(e) The chronological logs shall be available to the Secretary upon request at any time.

Dated: August 4, 1989.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 89-19701 Filed 8-21-89; 8:45 am]

BILLING CODE 4810-25-M

POSTAL SERVICE

39 CFR Parts 775, 776

Amendments to Environmental Procedures and Procedures for Floodplain Management and Protection of Wetlands

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The purpose of the proposed amendments to part 775 is to clarify, update, and in some respcts extend the situations in which the Postal Service does not prepare environmental assessments under its facilities program. The revised exclusions draw on experiences over the past five years with numerous facility projects and accommodate new acquisition techniques such as advance site acquisitions.

Certain changes are also proposed in the Postal Service's facility planning procedures for floodplains and wetlands (part 776), but these changes are not intended to change the scope or level of review required.

DATES: Written comments must be received by September 21, 1989.

ADDRESS: Written comments must be sent to Director, Office of Facilities Planning and Management, Facilities Department, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Room 4126, Washington, DC 20260-6420. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 4130 at the above address.

FOR FURTHER INFORMATION CONTACT: Edward Wandelt, (202) 268-3135.

SUPPLEMENTARY INFORMATION: The United States Postal Service conducts environmental reviews for proposed facility actions through procedures outlined in 39 CFR 775, Environmental Procedures. These procedures define the types of facility projects for which the Postal Service prepares environmental assessments. Regulations concerning floodplains and wetlands appear in 39 CFR 776.

The categories of projects for which an environmental assessment is normally not done (referred to as categorical exclusions in § 775.4(b)) are being revised in order to clarify, update, and extend them.

Section 775.4(b)(1) is being replaced with new § 775.4(b)(1) and § 775.4(b)(5) to accommodate new real estate techniques such as landbanking and advance acquisition of sites. Advance site acquisition is used in "tight" real estate markets or to take advantage of real estate opportunities. Landbanking is used to acquire land in high-growth areas, where a future need for facilities is anticipated but specific needs or projects have not been identified. The revised criteria do not provide for environmental assessments for advance site acquisition and acquisition of land under landbanking procedures because the process of acquisition does not have environmental impacts. However, any plan for us or disposal of such land would be subject to applicable review requirements under this section.

New § 775.4(b)(2) is added, and the first part of § 775.4(b)(3) is amended to account for length of occupancy. Also, the former test for exclusion that there be no "enlarged occupancy" is changed to require that there be no "significant" change in the use of the property. Under proposed § 775.4(b)(2) those buildings acquired through purchase, lease, or exchange under 50,000 net interior square feet with occupancy of more than 90 days would not require an environment assessment. Under proposed § 775.4(b)(3) leasing buildings of any size for occupancy of 90 days or less would not require an environmental assessment. Temporary occupancies are viewed as not having environmental impacts of a nature warranting an environmental assessment.

Current § 775.4(b)(2) is renumbered § 775.4(b)(4) and amended to propose

that the expansion or improvement of an existing postal facility would not involve an environmental assessment unless the gross square footage is to be increased 30,000 square feet or more. The revision conforms this threshold with that for the construction of a new building and reflects postal experience that renovation projects below this threshold do not involve significant environmental impacts.

The second part of current § 775.4(b)(3) is renumberd § 775.4(b)(10) and amended to refer to planned postal uses, instead of the size of the operation.

Current § 775.4(b)(4) is renumbered § 775.4(b)(7).

Current § 775.4(b)(5) is renumbered § 775.4(b)(9) and amended to provide an exclusion for disposal of improved real estate either through sale or outlease involving under 30,000 net interior square feet.

Section § 775.4(b)(6) is amended to provide that routine protection and maintenance of properties are excluded unless they alter the configuration of the building.

Current § 775.4(b)(7) is renumbered § 775.4(b)(15).

An exclusion is being proposed as new § 775.4(b)(8) for obtaining, granting, disposing, or changing easements, licenses and permits, and similar interests, since no environmental impacts have been associated with these actions.

Current § 775.4(b)(8) is renumbered § 775.4(b)(13) and amended to add an exclusion for the procurement or disposal of mail handling equipment. Experience has shown that the procurement and disposal of mail handling equipment does not involve environmental impacts.

Current § 775.4(b)(9) is renumbered § 775.4(b)(14).

An exclusion is proposed as new § 775.4(b)(11) for the extension, renewal, renegotiation, or termination of existing lease agreements. Again, experience has shown that these actions do not create environmental impacts.

An exclusion is proposed as new § 775.4(b)(12) for joint development and/or joint-use projects involving construction under 30,000 net interior square feet. Experience has shown that the degree of impacts does not differ whether construction within this limit is for ownership or lease.

Section § 775.6(a)(1)(ii) is being amended to make reference to a set of internal review procedures for assisting in the determination of extraordinary circumstances, which, if found, would lead to a preparation of an environmental assessment. In addition, § 775.6(b)(3) would be changed to make it clear that under appropriate circumstances, continued control of competing sites for purposes of this regulation could be accomplished by advance acquisition.

In the EIS evaluation process, the reference to "worst-case" analysis of alternatives in § 775.8(b)(6) would be replaced with a requirement to evaluate alternatives based on reasonably foreseeable future conditions. This change is made to be consistent with changes made in regulations of the Council on Environmental Quality. See 40 CFR 1502.22(b).

The Postal Service's planning process for facilities projects no longer requires the preparation of studies entitled "Site Planning Report" and "Economic Analysis Report," the names used in part 776. Changes are proposed to require that the same information be collected and analysis performed, and the same determinations made, without specifying the names of the analytical documents. Other changes would conform the regulations more closely to Executive Orders on floodplains and wetlands.

In view of the above considerations, the Postal Service proposes to amend 39 CFR parts 775 and 776 as follows:

List of Subjects in 39 CFR Parts 775 and 776

Environmental Assessments, Environmental Impact Statements, Floodplain Management and Protection of Wetlands Procedures.

PART 775—ENVIRONMENTAL PROCEDURES

1. The authority citation for Part 775 continues to read as follows:

Authority: 39 U.S.C. 401; 42; 42 U.S.C. 4331 *et seq.*; 40 CFR 1500.4(p).

2. Section 775.4(b) is revised to read as follows:

§ 775.4 Typical classes of action.

* * * * *

(b) *Categorical exclusions.* The classes of action in paragraphs (b) (1) through (15) of this section normally do not require either an environmental assessment or an environmental impact statement. However, the responsible official must be alert to unusual conditions that would require an environmental assessment or an environmental impact statement notwithstanding the applicability of a categorical exclusion to particular action.

(1) New construction, Postal Service owned, including site acquisition by any method, or Postal Service leased, of less than 30,000 net interior square feet.

(2) Acquisition by purchase, lease, or exchange, of existing buildings containing less than 50,000 net interior square feet with occupancy of greater than 90 days where planned postal usês do not differ significantly from past uses of the site.

(3) Lease of existing buildings of any size for occupancy of 90 days or less.

(4) Expansion or improvement of an existing facility where the expansion does not exceed 30,000 net interior square feet.

(5) Acquisition of unimproved real property not connected to specific facility plans or when necessary to protect the interests of the Postal Service in advance of final project approval. This categorical exclusion applies only to the acquisition. Any subsequent use of the property for a facility project must be considered under this part without regard to ownership of the real property.

(6) Routine actions normally conducted to protect and maintain properties and which do not alter the configuration of the building.

(7) Repair to, or replacement-in-kind of, building equipment or components (e.g., electrical distribution, HVAC systems, doors, windows, roofs, etc.).

(8) Obtaining, granting, disposing, or changing of easements, licenses and permits, rights-of-way and similar interests.

(9) Disposal through sale or outlease of unimproved real property of any size or improved real estate under 30,000 net interior square feet.

(10) Purchase of Postal Service occupied leased property where planned postal uses do not differ significantly from past uses of the site.

(11) Extension, renewal, renegotiation, or termination of existing lease agreements.

(12) Joint development and/or joint-use projects involving construction under 30,000 net interior square feet.

(13) Procurement or disposal of motor vehicles not involving a substantial increase in the concentration of vehicles in a geographic impact area. Procurement or disposal of mail handling equipment.

(14) Postal rate or mail classification actions.

(15) Postal facility function changes not involving construction, the relocation of a substantial number of employees, or a substantial increase in the number of motor vehicles at a facility.

3. In § 775.6, in the introductory text of paragraph (b)(3), add after the word "sites," the following: "(including advance acquisition, if necessary, and

where authorized by postal procedures),"; revise paragraphs (a)(1)(ii) and (b)(3)(ii) to read as follows:

§ 775.6 Environmental evaluation process.

(a) * * *

(1) * * *

(ii) The action is not affected by extraordinary circumstances which may cause it to have a significant environmental effect. This part of the determination may be supported by completion of an environmental checklist (referred to as a level I environmental review in the Handbook RE-6) for certain types of categorical exclusions.

* * * * *

(b) * * *

(3) [Amended]

* * * * *

(ii) The continued control of specified competing sites, (including advance acquisition, if necessary, and where authorized by postal procedures) chosen to preserve environmental or other options, and

* * * * *

§ 775.8 [Amended]

4. In § 775.8(b)(6), remove the second sentence and insert in its place the following: "There must be included in the statement an analysis of alternatives based on reasonably foreseeable conditions in the future and an indication of the probability or improbability of their occurrence."

PART 776—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS PROCEDURES

5. The authority citation for part 776 continues to read as follows:

Authority: 39 U.S.C. 401.

§ 776.4 [Amended]

6. In § 776.4, remove paragraphs (c) and (d).

§ 776.5 [Amended]

7. In § 776.5, remove the word "locating" from the introductory text of paragraph (i) and insert in its place "constructing"; and revise the heading and text of paragraphs (a) and (d), the heading and introductory text of paragraph (e), paragraph (e)(1), the introductory text of paragraph (f), paragraph (f)(1), paragraph (f)(4), paragraph (f)(5), and paragraph (h) to read as follows:

§ 776.5 New construction.

(a) *Construction of floodplain/wetland.* During the evaluation of contending sites for a proposed project, information concerning impacts on wetlands and floodplains will be collected and considered. If use of a site would require construction in a floodplain or wetland, the site may be considered only when there is no practicable alternative site.

* * * * *

(d) *Site planning.* During site evaluation, a determination must be made whether any of the identified site alternatives would require construction in, or appear to have an impact on, a floodplain or wetland. This information will be included as part of any required Environmental Assessment.

(e) *Analysis of alternatives.* If any of the site alternatives identified under paragraph (d) of this section would involve construction within a floodplain or wetland, an analysis of alternatives must be prepared, and must include:

(1) Alternate sites as identified in the site planning process;

* * * * *

(f) *Reevaluation.* If, after consideration of information and analyses produced under paragraphs (b), (d), and (e) of this section, and (if required) review through an Environmental Assessment or Environmental Impact Statement, the determination is that there appears to be no practicable alternative to locating in a floodplain or wetland, a final reevaluation of alternatives must be conducted. The Facilities Service Center Director is responsible for this reevaluation. To facilitate this reevaluation, the following data must be submitted to the Facilities Service Center Director:

(1) A summary of reasons why the rejected alternatives and alternative sites, if any, were considered impracticable.

* * * * *

(4) Documentation from the site evaluation and planning process.

(5) The Environmental Assessment or Environmental Impact Statement, if either was required.

* * * * *

(h) If the Facilities Service Center Director determines that there is not a practicable alternative to constructing in a floodplain or wetland, the appropriate Postal Service organization is so advised. The Director may provide instructions for mandatory measures to be accomplished during design and construction to minimize harm to the floodplain or wetland.

(i) [Amended]

* * * * *

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-19702 Filed 8-21-89; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 91; FRL-3633-3]

Approval and Promulgation of Implementation Plans; Revision to the State of New Jersey Implementation Plan for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice announces that the Environmental Protection Agency is proposing to approve a revision to the New Jersey State Implementation Plan (SIP) for ozone. This revision was prepared by the New Jersey State Department of Environmental Protection pursuant to a SIP commitment to reduce ozone levels in the State of New Jersey, as required under Section 110 and Part D of the Clean Air Act. Today's notice proposes to incorporate into the New Jersey SIP a revised regulation, New Jersey Administrative Code 7:27, Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Substances," which will reduce violatile organic compound emissions resulting from the refueling of motor vehicles at certain gasoline stations in the State of New Jersey.

COMMENTS: Comments must be received by September 21, 1989.

ADDRESSES: All comments should be addressed to:

William J. Muszynski, P.E., Acting Regional Administrator, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278.

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

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

New Jersey State Department of Environmental Protection, Division of Environmental Quality, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278, (212) 264–2517

SUPPLEMENTARY INFORMATION:

Background

In its most recent comprehensive State Implementation Plan (SIP) revision for ozone, which was submitted to the Environmental Protection Agency (EPA) on September 26, 1983 and approved by EPA on November 8, 1983 (48 FR 51472), the State of New Jersey committed to adopt a number of measures to control the emissions of volatile organic compounds (VOCs) into the ambient air. These control measures included source categories covered by EPA's Control Techniques Guidelines (CTGs), larger sources not covered by a CTG, as well as, control measures considered by New Jersey as reasonably available and those considered as "extraordinary." These measures would provide additional VOC emission reductions needed to attain the National Ambient Air Quality Standard (NAAQS) for ozone. One of these control measures is "Stage II Vapor Controls," the subject of this notice.

Whenever gasoline is transferred or stored, gasoline vapors can be released to the atmosphere. The collection and control of these fugitive gasoline vapors at storage facilities, terminals, and the loading of gasoline service station tanks is called Stage I vapor controls. Because emissions due to this bulk loading and unloading of gasoline are controlled at every point during its shipment (i.e., from storage and loading facilities to the tank truck, and from the tank truck to the service station storage tank), the control of the emissions due to the refueling of vehicles at gasoline service stations is the remaining uncontrolled link in the fuel distribution system.

State Submittals

On February 22, 1988, the New Jersey Department of Environmental Protection (NJDEP) submitted to EPA adopted revisions to Chapter 27, Title 7 of the New Jersey Administrative Code (N.J.A.C. 7:27) Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Substances" (Subchapter 16), which New Jersey had adopted and made effective as of February 22, 1998. On April 18, 1988 the State submitted information on test procedures which will be used to determine compliance with the revised provisions of Subchapter 16.

These revisions add to Subchapter 16 requirements for the control of gasoline vapors resulting form the refueling of vehicle fuel tanks at gasoline service stations. When vehicle fuel tanks are refilled, the air inside the tank is displaced and forced out into the atmosphere. This air is heavily saturated with gasoline vapors which are VOCs that contribute to the ozone nonattainment problem.

The control systems required under Subchapter 16, known as Stage II controls, are those that NJDEP determines are capable of capturing at least 95 percent of this vapor laden air before it enters the atmosphere. The vapor control system must be approved by the NJDEP and must be composed of equipment that has been certified by the California Air Resources Board (CARB). In addition, it must be designed to prevent overfilling and spillage of gasoline.

Subchapter 16 applies to any existing gasoline service station whose average monthly throughput, between September 1, 1986 and August 31, 1987, exceeds 10,000 gallons. It also applies to all new stations regardless of gasoline throughput. Each station owner must maintain records of the gasoline throughput. For each station required to be controlled a permit to construct a Stage II system must be submitted to and approved by the NJDEP. After construction of its system, a service station must pass mandatory pressure and blockage tests.

The schedule for service stations to comply with the Stage II provisions are dependent on the stations throughput. Those stations with an average monthly throughput of 40,000 gallons or greater must be in compliance by December 30, 1988. Those stations with an average monthly throughput of less than 40,000 gallons and exceeding 10,000 gallons must be in compliance by December 29, 1989. Stations constructed after February 21, 1988 regardless of throughput, must be in compliance prior to dispensing gasoline.

The NJDEP has identified the test methods that it will use to ensure compliance with its Stage II requirements. Pressure and blockage tests are required for all stations installing Stage II control systems and are included as conditions on the permit to contruct. Efficiency testing can be done using the CARB test procedure, "Test Procedure for Determining the Efficiency of Gasoline Vapor Recovery Systems at Service Stations."

Section 16.10 contains a general variance provision which permits the Commissioner of the New Jersey Department of Environmental Protection to accept alternate controls when a facility is unable to comply because of technical infeasibility. Variances adopted by the State become applicable only if approved by EPA as a SIP revision.

It is important to note that the State did not meet the schedule for implementing this measure that it committed to in its 1983 SIP revision. On November 17, 1987, it was ordered by the U.S. District Court, District of New Jersey in the case of the *American Lung Association, et al. v. Thomas H. Kean, Governor of New Jersey, et al.*, to implement Stage II. The compliance schedule contained in Section 16.3 conforms to the Court ordered schedule.

Finding

EPA finds that the adoption of Stage II controls in Subchapter 16 meets New Jersey's SIP commitment. The design of the Stage II program submitted by the State is substantially equivalent to the program committed to in the SIP, both in nature and emission reductions. The VOC reductions associated with this regulation are a necessary part of New Jersey's program to attain the ozone standards. EPA is, therefore, proposing to approve the revisions to Subchapter 16 of the N.J.A.C. 7:27 effective February 21, 1988 as it relates to Stage II controls. EPA further notes that experience with Stage II controls in other states has shown it to be a technologically feasible and an effective means of reducing VOC emissions.

EPA is soliciting public comments on its proposed action. Comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the address noted at the beginning of today's notice.

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

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.)

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, Hydrocarbons, Ozone.

Date: December 13, 1988.

EDITORIAL NOTE: This document was received for publication by the Office of the Federal Register on August 17, 1989.

William J. Muszynski, P.E.,
Acting Regional Administrator, Environmental Protection Agency, Region II.

[FR Doc. 89-19734 Filed 8-21-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3633-2]

Approval and Promulgation of State Air Quality Plans; Massachusetts; Withdrawal of Proposed Approval of RACT for the Non-CTG Processes at General Electric Co., Pittsfield, MA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule, withdrawal.

SUMMARY: EPA is withdrawing a proposed action, published on January 31, 1989 (54 FR 4838), to approve a revision to the Massachusetts State Implementation Plan (SIP). The Massachusetts Department of Environmental Protection (DEP) has formally withdrawn the SIP revision request which would have imposed reasonably available control technology (RACT) on certain processes at the General Electric Company's facility in Pittsfield, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Nam Nguyen at (617) 565-3249 or FTS 835-3249.

SUPPLEMENTARY INFORMATION: On January 31, 1989, EPA published a notice of proposed rulemaking (54 FR 4838) proposing to approve a request from the Massachusetts Department of Environmental Protection (DEP), formerly called the Department of Environmental Quality Engineering, to revise the Massachusetts State Implementation Plan (SIP). The DEP's SIP revision consisted of a plan approval imposing reasonably available control technology (RACT) on three operations at the General Electric Company in Pittsfield (G.E. Pittsfield) that are not otherwise subject to RACT under Massachusetts SIP regulations developed pursuant to EPA's Control Technique Guidelines (CTGs).

The Massachusetts' SIP includes regulation 310 CMR 7.18(17) which requires RACT on sources which emit 100 TPY more of volatile organic compounds (VOCs) from non-CTG processes. At the time DEP originally submitted its proposed RACT plan for G.E. Pittsfield, that facility had existing non-CTG processes which emitted more than 100 TPY of VOCs as defined by the Massachusetts SIP:

PRE-RACT POTENTIAL LEVELS (TPY)

Large transformer group	15.0
Military ordnance division	10.6
Plastic business group	[1] 477.3
	[1] 502.9

[1] 444 of which consist of methylene chloride.

On March 6, 1989, the DEP submitted new information regarding the Plastic Business Group. Since the time of DEP's SIP revision request, G.E. Pittsfield physically modified the laminating resins process of the Plastic Business Group thereby becoming subject to the Massachusetts SIP regulation for new source review. Massachusetts issued a federally enforceable permit to G.E. Pittsfield imposing best available control technology (BACT) requirements on the Plastic Business Group's laminating resins process which are more stringent than the proposed RACT requirements for that process. BACT applies under the Massachusetts SIP for any change in emissions due to a modification. Lowest achievable emission rate (LAER) requirements did not apply because the increase in VOC emissions from the modification was less than 40 TPY. Moreover, Massachusetts has revised its definition of VOC to exclude methylene chloride in accordance with the EPA recommended definition of VOC. Therefore, the VOC emissions from existing non-CTG processes at G.E. Pittsfield now total less than 100 TPY:

PRE-RACT POTENTIAL LEVELS (TPY)

Large transformer group	15.0
Military ordnance division	10.5
	25.6

As the applicability threshold for RACT under SIP regulation 310 CMR 7.18(17) is 100 TPY and G.E. Pittsfield's existing non-CTG processes' potential VOC emissions are less than 100 TPY, the DEP does not have to submit a source-specific SIP revision imposing RACT on the non-CTG processes at G.E. Pittsfield. Accordingly, on June 30, 1989, the DEP withdrew its SIP revision, and EPA is hereby withdrawing its proposed action to approve that revision.

Dated: August 14, 1989.

Paul G. Keough,
Acting Regional Administrator, Region I

[FR Doc. 89-19733 Filed 8-21-89; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

[Docket No. 90775-9175]

Northern Anchovy Fishery, Preliminary Determination

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

ACTION: Notice of preliminary determination.

SUMMARY: NOAA announces the estimated spawning biomass and preliminary determination of harvest quotas for the northern anchovy fishery in the exclusive economic zone (EEZ) for the 1989-90 fishing season. The harvest quotas have been determined by application of the formulas in the Northern Anchovy Fishery Management Plan (FMP) and its implementing regulations. Those regulations require this announcement to be made on or about July 1 each year. The optimum yield is set at 4,900 metric tons plus an unspecified amount for use as live bait; there is no U.S. harvest quota for reduction fisheries. There is no allocation for joint venture processing, nor for total allowable level of foreign fishing.

DATES: Comments must be received on or before September 5, 1989.

ADDRESSES: Comments should be addressed to E.C. Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Fisheries Management and Analysis Branch, Southwest Region, NMFS, 213-514-6667.

SUPPLEMENTARY INFORMATION: In consultation with the California Department of Fish and Game and the NMFS Southwest Fisheries Center, the Director of the Southwest Region has made a preliminary determination that the spawning biomass of the central subpopulation of northern anchovy, *Engraulis mordax*, is estimated to be 214,000 metric tons (mt). The biomass estimate is derived from, and is equivalent to, the Egg Production Method measurement, but is based on the Stock Synthesis Model.

Regulations implementing the FMP state that there will be no reduction fishery when the estimated spawning biomass is less than 300,000 mt. The Regional Director has made the following preliminary determinations for the 1989–1990 fishing season by applying the formulas in the FMP and in 50 CFR 662.20 of the implementing rules:

1. The total U.S. harvest quota or optimum yield (OY) of northern anchovy is 4,900 mt plus an unspecified amount for use as live bait.

2. The total U.S. harvest quota for reduction purposes is zero. There is no reduction harvest allocation when the spawning biomass is below 300,000 mt; therefore, there will be no reduction fishery during the 1989–1990 fishing season.

3. The U.S. harvest allocation for non-reduction fishing (i.e., fishing for anchovy for use as dead bait and direct human consumption) is 4,900 mt.

4. The domestic annual processing capacity (DAP) is 1,468 mt. The FMP states that this amount is the maximum level of reduction plus non-reduction processing during the previous 3 years.

5. There is no U.S. harvest limit for the live bait fishery.

6. The amount allocated to joint venture processing (JVP) is zero because there is no history of, nor are there applications for, joint ventures.

7. Domestic annual harvest capacity (DAH) is 1,468 mt. This is the sum of DAP and JVP.

8. The total allowable level of foreign fishing (FALFF) is zero. When the spawning biomass is below 300,000 mt, there is no allocation for foreign fishing.

Information obtained through the peak spawning period of January-February shows two major factors that serve to explain this year's estimate:

1. Low temperatures during and preceding the spawning season reduce sexual maturity and spawning. The mean temperature for January-February, 1989 was 12.5° C; the mean temperature since 1960 is 14.3° C. Only 5 percent of 1-year-old anchovies are expected to be sexually mature and actively spawning at 12.5° C.

2. There is an apparently large 1988 year class recruiting to the 1989 population, although virtually none of this large year class spawned during the January-February period.

As a result of the above, there is an estimated total biomass of 984,000 mt and a spawning biomass of 214,000 mt. The low spawning biomass is primarily due to the effects of cold water and is not due to recruitment failure or overfishing.

Classification

This action is authorized by 50 CFR part 662 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 662

Fisheries.

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

Dated: August 16, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89–19670 Filed 8–21–89; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 54, No. 161
Tuesday, August 22, 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. 89-137]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit To Field Test Genetically Engineered Tobacco 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 Iowa State University, to allow a field test in the State of Iowa of genetically engineered tobacco plants, modified to express a bacterial chloramphenicol acetyl transferase enzyme in order to confer resistance to the antibiotic, chloramphenicol, on these plants. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tobacco 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. Quentin B. Kubicek, Biotechnologist, Biotechnology Permit Unit, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 841, 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 89-097-01.

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).

Iowa State University at Ames, Iowa, has submitted an application for a permit for release into the environment, to field test genetically engineered tobacco plants modified to express a bacterial chloramphenicol acetyl transferase enzyme in order to confer resistance to the antibiotic chloramphenicol. The field trial is to take place in Ames, Iowa.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the tobacco plants under the conditions described in the Iowa State University 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 Iowa State University, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the enviromental 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. A gene which has the effect of making tobacco plants express a bacterial chloramphenicol acetyl transferase enzyme has been inserted into a tobacco chromosome. In nature, the genetic material contained in a chromosome of these plants can only be transferred to another sexually compatible plant by cross-pollination. In this field test trial, the inserted gene cannot spread to any other sexually compatible plant by cross-pollination because the field test plot is located at a sufficient distance from any sexually compatible plant with which these experimental tobacco plants could successfully cross-pollinate.

2. Neither the proteinase inhibitor II promoter or terminator signal sequence, the chloramphenicol acetyl transferase gene itself, nor the chloramphenicol acetyl transferase gene derived product confer on tobacco any plant pest characteristic.

3. The potato variety (Russett Burbank), from which the proteinase inhibitor II promoter and terminator signal sequences were obtained, is not a plant pest.

4. The chloramphenicol acetyl transferase gene does not provide the genetically engineered tobacco plants with any measurable selective advantage over nongenetically engineered tobacco plants in its ability to be disseminated or to become established in the environment.

5. The plasmid vector used to transfer the chloramphenicol acetyl transferase gene into the tobacco chromosome has been evaluated for its use in this experiment. The plasmid vector, although derived from the DNA of a tumor inducing (Ti) plasmid with known plant pathogenic potential, has been disarmed; that is, genes that are necessary for pathogenicity have been removed from the plasmid vector. The plasmid vector has been tested and shown to be not pathogenic to any susceptible plant.

6. The vector agent *Agrobacterium tumefaciens*, a phytopathogenic bacterium, was used to deliver the vector DNA and the chloramphenicol acetyl transferase gene into tobacco plant cells. The vector agent has been demonstrated by *in vitro* and *in vivo* assays to be eliminated and no longer associated with any genetically engineered tobacco plant or seed.

7. Horizontal movement by infectious transfer or transposition of any of the introduced genes or DNA sequences is not known to be possible. The plasmid vector acts by delivering the gene to the tobacco genome where it is stably inserted into the tobacco chromosomal DNA. The plasmid vector cannot replicate independently of its vector agent and does not survive alone in any plant. No mechanism of horizontal movement is known to exist in nature to move an inserted gene from a chromosome of a genetically engineered plant to any other organism.

8. The size of the field test trial plot is small (50 feet by 120 feet). The plot will be located on a research farm which will provide good security. The level of physical containment has been found to be adequate to prevent an accidental release or dissemination in the environment.

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 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 in Washington, DC, this 17th day of August 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–19718 Filed 8–21–89; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Outfitter and Guide Fees

AGENCY: Forest Service, USDA.

ACTION: Notice; adoption of final policy.

SUMMARY: The Forest Service gives notice of adoption of a final policy to adjust the minimum fees required for outfitter and guide services on National Forest System lands for inflation. The fees will be adjusted every 3 years based on the Implicit Price Deflator Index, published every February in the "Economic Report of the President" to Congress. This action ensures that fees accurately reflect fair market value as required by law and regulation.

EFFECTIVE DATE: This policy is effective October 23, 1989. The first adjustment in minimum fees will occur in March 1990 and reflected in billings for annual permits sent out at that time.

FOR FURTHER INFORMATION CONTACT: John Shilling, Recreation Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090. (202)–382–9426.

SUPPLEMENTARY INFORMATION: In 1984, the Forest Service adopted changes in its policy for managing special use permits for individuals or organizations conducting outfitting and guiding activities on the National Forests, including adoption of a new fee system.

When the new fee system was adopted in 1984, the minimum fair market value fee of an outfitting and guide permit was set at $50 and the charge for reserved use of a site at $100. The new fee system did not, however, allow for adjustment of fees to compensate for inflation. Office of Management and Budget Circular A–25 specifies that, "Where federally owned resources or property are leased or sold, a fair market value should be obtained."

The Forest Service decided to give notice and opportunity to comment on adjustment of minimum fees after a November 1988 meeting with representatives of the North American Outfitters Association and the National Forest Recreation Association, who expressed concern about the timeliness of the proposal.

On March 23, 1989, the Forest Service published for comment in the Federal Register (54 FR 11982) a proposed amendment to Forest Service Special Uses Management Handbook 2709.11 (Chapter 30, Fees Determination) to adjust minimum fees for outfitting and guiding on National Forest System lands for inflation. Under the proposed amendment, beginning March, 1990, the minimum fees for permits and for reserved use of a site would be adjusted based on the change in the Implicit Price Deflator. These fees would be adjusted every 3 years using 1984 as a base year.

Summary of Public Comments

The Forest Service received 9 letters commenting on the proposed amendment; 2 letters from outfitter associations and 7 letters from individual outfitters. Comments from respondents and Agency response follow.

One respondent felt that adjusting fees based on a broad economic indicator rather than on conditions occurring in the outfitting industry is unfair. The Agency chose the Implicit Price Deflator Index as the most comprehensive and reliable economic indicator available and believes it is fair to apply a uniform index to all permittees. Outfitting industry conditions would be difficult, if not impossible, to quantify with any reliability due to the variety of outfitter business sizes, types of operation, seasonal nature of operations and variability of local economic conditions. Accordingly, the agency is retaining the Implicit Price Deflator Index as the basis for adjustment of fees in the final policy.

Most respondents opposed any fee increase. While adjustment of minimum fees will result in increases as long as inflation continues, the Agency is not increasing fees in real terms. The current minimum fees were established with full consultation and input from the outfitting industry in 1984 and continues to enjoy the support of the industry as a fair and equitable fee system. In order to keep the fees consistent with the 1984 policy and to reflect fair market value as required by law and regulation, the fees must be adjusted occasionally for inflation. Failure to adjust minimum fees for the effects of inflation would, over time, result in a government subsidy of outfitter and guide service not enjoyed by other permittees who pay fees for use of National Forest System lands and would clearly be inconsistent with Federal policy on fee charges.

One respondent suggested that fees should be adjusted when individual permits are renewed (which may be as infrequently as every five years) instead of every three years as the amendment reads. We disagree. To be fair to all permittees, the adjustment interval period must be independent of the permit renewal period so that the adjustment occurs for all permittees at the same time. The agency selected three years instead of a longer interval in order to avoid a large cumulative increase in fees. The Implicit Price Deflator Index would not change significantly enough over a shorter period than three years to warrant the time spent on more frequent adjustments.

Final Policy

Having considered the comments and suggestions received on the proposed policy, the Forest Service has concluded that the proposed policy should be adopted without change. The policy as it will be issued to Forest Service

employes in the Forest Service Special Uses Handbook reads as follows:

Fee Calculation and Collection

Beginning with fees due after March 1990, adjust the minimum annual fee for outfitting/guiding use every 3 years based on the Implicit Price Deflator Index, using 1984 as a base year.

Fee for Site Reservation

Beginning with fees due after March 1990, adjust the minimum annual reservation fee for each site every 3 years based on the Implicit Price Deflator Index, using 1984 as a base year.

Dated: July 27, 1989.

George M. Leonard,

Associate Chief.

[FR Doc. 89-19757 Filed 8-21-89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Initiation of Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various countervailing duty orders. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: August 22, 1989.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 355.22(a)(1) of the Department's regulations, for administrative reviews of various countervailing duty orders.

Initiation of Reviews

In accordance with § 355.22(c), of the Department's regulations, we are initiating administrative reviews of the following countervailing duty orders. We intend to issue the final results of these reviews no later than July 31, 1990.

Countervailing duty proceedings—	Periods to be reviewed
European Communities:	
Sugar C-408-046	1/1/88-12/31/88
Uruguay:	
Leather Wearing Apparel C-355-001	1/1/88-12/31/88

Antidumping Duty Proceedings and Firms

We received no requests for review of antidumping duty orders and findings with July anniversary dates.

Interested parties must submit applications for administrative protective orders in accordance with § 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and § 355.22(c) of the Commerce Department's countervailing duty regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22(c)).

Dated: August 14, 1989.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 89-19636 Filed 8-21-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-808]

Initiation of Antidumping Duty Investigation: Limousines From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the "Department"), we are initiating an antidumping duty investigation to determine whether imports of limousines from Canada are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of limousines from Canada materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 7, 1989. If that determination is affirmative, we will make a preliminary determination on or before January 2, 1990.

EFFECTIVE DATE: August 22, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2613 or (202) 377-1769, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On July 24, 1989, we received a petition filed in proper form by Southampton Coachworks, Ltd. In compliance with the filing requirements of § 353.12 of the Department's revised regulations (54 FR 12772, March 28, 1989) (to be codified at 19 CFR 353.12), petitioner alleges that imports of limousines from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, the U.S. industry. Petitioner also alleges that critical circumstances exist with respect to this merchandise.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), (F), or (G) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the officials cited in the "**FOR FURTHER INFORMATION CONTACT**" section of this notice.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in section 353.14 of the Department's regulations.

United States Price and Foreign Market Value

Petitioner based United States Price (USP) for limousines on a price list for U.S. distributors of limousines from Canada. Petitioner's Foreign Market Value (FMV) for limousines is based on a price list for Canadian distributors of

limousines. The margins put forth by petitioner range from 19.36 percent to 24.35 percent. Petitioner adjusted upward the USP to include delivery cost because the price list for Canadian distributors included the cost of delivery while the price list for U.S. distributors did not. However, because it is the Department's practice to use ex-factory prices in its fair value comparisons, we recalculated the margins to range from 21.14 percent to 25.20 percent.

Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on limousines from Canada and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of limousines from Canada are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by January 2, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

The products covered by this investigation are limousines, which are defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham or any other six or eight cylinder gasoline engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base car. The vehicles are used by private individuals, corporations and limousine services. Limousines are currently provided for under the following HTS subheadings: 8703.23.00.75, 8703.24.00.75 and 9802.00.50.40. Prior to January 1, 1989, limousines were classifiable under items 806.2040, 692.1015 and 692.1030 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 7, 1989, whether there is a reasonable indication that imports of limousines from Canada materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to the statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: August 14, 1989.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-19637 Filed 8-21-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-809]

Initiation of Countervailing Duty Investigation; Limousines From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers or exporters in Canada of limousines, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of limousines from Canada materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, we will make our preliminary determination on or before October 17, 1989.

EFFECTIVE DATE: August 22, 1989.

FOR FURTHER INFORMATION CONTACT: Kay Halpern or Roy Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0192 and (202) 377-5414.

SUPPLEMENTARY INFORMATION:

The Petition

On July 24, 1989, we received a petition in proper form from Southampton Coachworks, Ltd., of Farmingdale, New York. This petition is filed on behalf of the U.S. industry producing limousines. In compliance with the filing requirements of section 355.12 of the Commerce Regulations (19 CFR 355.12), the petition alleges that producers and exporters of limousines in Canada receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, the U.S. industry.

Petitioner has alleged that it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of the U.S. industry producing the products that are subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the

Commerce officials cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

Initiation of Investigation

Under section 702(c) of the Act, we must make the determination on whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on limousines from Canada and have found that most of the programs alleged in the petition meet these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Canadian producers or exporters of limousines, as described in the "Scope of Investigation" section of this notice, receive subsidies. However, we are not initiating an investigation for certain programs because the petition failed to allege the elements necessary for the imposition of a duty or in some instances failed to provide the necessary supporting information. If our investigation proceeds normally, we will make our preliminary determination on or before October 17, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s). The HTS item numbers are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

The product covered by this investigation is limousines, which are defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles are built on Lincoln Town Car, Mercury Grand Marquis, Cadillac Brougham or any other six or eight cylinder gasoline engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base car. The vehicles are used by private individuals, corporations and limousine services. Limousines are currently provided for under the following HTS subheadings: 8703.23.00.75, 8703.24.00.75 and 9802.00.50.40. Prior to January 1, 1989, limousines were classifiable under items 806.2040, 692.1015 and 692.1030 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Allegations of Subsidies

Petitioner lists a number of practices by the Government of Canada and the provincial governments of Ontario and Quebec which allegedly confer subsidies on producers or exporters of limousines. We are initiating an investigation of the following programs:

- Investment Tax Credits (ITCs) over and above the basic rate of seven percent
- Regional Development Incentive Program (RDIP) and Industrial and Regional Development Program IRDP)
- Loans under the Enterprise Development Program (EDP)
- Promotional Projects Program (PPP)
- Program for Export Market Development (PEMD)

We are not initiating an investigation of the programs listed below. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. All the programs listed below were alleged to confer domestic subsidies. The elements which must be alleged for a domestic subsidy program are (1) specificity (*i.e.*, the program is limited to a specific enterprise or industry or group of enterprises or industries), and (2) provision of a countervailable benefit (*i.e.*, a subsidy paid or bestowed directly or indirectly on the manufacturer, producer or exporter of any class or kind of merchandise). For upstream subsidies, the initiation threshold is higher. Under section 701(e) of the Act, the Department must have reasonable grounds to believe or suspect that an upstream subsidy, as defined in section 771A of the Act, is being paid or bestowed upon merchandise under investigation. For the programs listed below, the requirements of section 702(b) or 701(e) of the Act were not fulfilled in the petition.

1. Provision of Subsidized Electric Energy by Hydro-Quebec

Petitioner alleges that a countervailable benefit is conferred on Canadian Limousine Manufacturers in the form of low-cost electric energy. Specifically, petitioner alleges that Hydro-Quebec, a provincially-owned power company, is being subsidized and that the subsidy passes through the limousine manufacturer's supplier of electricity, Ontario Hydro, to limousine manufacturers. Under section 701(e) of the Act, whenever the Department has reasonable grounds to believe or suspect that an upsteam subsidy is being paid or bestowed, the Department must investigate whether an upstream subsidy has in fact been paid or bestowed. The provisions of section 771A(a) of the Act define an upstream subsidy as:

> Any subsidy described in section 771(5)(B)(i), (ii), (iii), or (iv) by the government of a country that—(1) is paid or bestowed by that government with respect to a product (hereinafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding; (2) in the judgment of the administering authority bestows a competitive benefit on the merchandise; and (3) has a significant effect on the cost of manufacturing or producing the merchandise.

Because pettioner has not made a formal upstream subsidy allegation covering each of the elements listed above, we are not initiating on this program.

2. Other Investment Tax Credits

Petitioner alleges that a variety of investment tax credits provide a benefit to producers or exporters of limousines in Canada. As noted above, we are initiating an investigation on additional tax credits over and above the basic rate of seven percent, which are tied to certain regions of Canada. However, we are not initiating an investigation on the basic rate for investment in "qualified property," "certified property," and transportation and construction equipment. Petitioner argues that we must make a determination of whether the basic rate is limited to specific industries on a *de facto* basis. In *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041,

March 24, 1986) (*Groundfish*), we determined that the basic rate of seven percent is not countervailable because it is not limited to a specific enterprise or industry or group of enterprises or industries. Absent the provision of new evidence, or an allegation of changed circumstances, we have no basis upon which to re-initiate an investigation of this type of investment tax credit.

3. EDP Loan Guarantees and Grants

Availability of loan guarantees and grants through the Enterprise Development Program was investigated in Groundfish. We determined that the provision of loan guarantees and grants under this program was not limited to a specific enterprise or industry or group of enterprises or industries. Absent the provision of new evidence, or an allegation of changed circumstances, we have no basis upon which to re-initiate an investigation of the provision of loan guarantees and grants under this program.

4. Federal Expansion and Development/ Northern Ontario (FEDNOR)

FEDNOR is a federal economic development program which provides grants covering up to 35 percent of eligible capital costs. The program is targeted to promote the economy of northern Ontario. Petitioner provided no evidence to show that potential respondents are located in northern Ontario. Therefore, we are not initiating an investigation of this program.

The petitioner has alleged certain other subsidies. However, these allegations were not submitted in proper form. If allegations in proper form are submitted in the future, we will consider whether or not to include them in our investigation.

Allegation of Critical Circumstances

Petitioner alleges that critical circumstances exist with respect to imports of limousines from Canada. Petitioner claims that the products concerned benefit from export subsidies that are inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade, and that imports have been massive over a relatively short period. We will determine whether critical circumstances exist with respect to these imports in our preliminary and final determinations.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-proprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it comfirms that it will not disclose such information, either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 7, 1989, whether there is a reasonable indication that imports of limousines materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, this investigation will continue according to the statutory procedures. This notice is published pursuant to section 702(c)(2) of the Act.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-19638 Filed 8-21-89; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 89-00011.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Northwest Gourmet Foods, Inc. (NGF). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Members (in addition to the applicant): Peter M.R. Fretwell.

Export Trade

1. *Products and Services.* All products and services.

2. *Export Trade Facilitation Services (as they relate to the export of Products and Services):* Consulting; financing; export licensing; shipping; transportation; taking title to goods; providing information on exporting mechanics to potential exporters; matching buyers with sellers; placing marine, casualty, war, and political risk insurance; coordinating the shipment of products; processing documentation; and providing market research.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

NGF, when conducting business under the name Northwest Gourmet Foods, Inc., or other registered business names, is certified to:

1. Enter into exclusive and non-exclusive agreements with individual Suppliers to act as the Supplier's export intermediary, whereby NGF may establish export prices, quantities, territories, and customer restrictions for Products and/or Services for the Export Markets. "Exclusive" means that NGF may agree not to represent any competitors of the Supplier without the Supplier's authorization, and the Supplier may agree not to otherwise sell, directly or indirectly, into Export Markets in which NGF serves the Supplier.

2. Enter into exclusive and/or non-exclusive agreements with Export Intermediaries. "Exclusive" means that NGF may agree to deal in Products and/or Services only through that Export Intermediary, and that Export Intermediary may agree not to represent anyone other than NGF in the sale of Products and/or Services.

3. Enter into exclusive and/or non-exclusive agreements with individual foreign buyers to act as their Purchasing Agent. "Exclusive" means that NGF may

agree to deal in Products and/or Services only through that individual foreign buyer, and that individual foreign buyer may agree not buy those Products and/or Services from anyone other than NGF.

4. Respond to sales opportunities in Export Markets by:

a. Contacting individual Suppliers of the Products and/or Services involved in the sales opportunity;

b. Inviting the Suppliers to provide independent price quotes for the Products and/or Services (to which NGF may add its own markup);

c. Entering into an agreement with individual Suppliers for which NGF submits a response to the sales opportunity;

d. Taking title to Products from Suppliers and shipping them to the buyer at NGF's quoted export price.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: August 15, 1989.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-19760 Filed 8-21-89; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 23, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, call (202) 377-3715.

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).

The current limits for certain categories in Group I and the Group II limit are being adjusted, variously, for swing, carryforward and recrediting of carryforward not used.

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 53 FR 50276, published on December 14, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 6, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on August 23, 1989, the directive of December 6, 1988 is amended further to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the People's Republic of China:

Category Levels	Adjusted twelve-month limit [1]
Group I	
237	1,348,468 dozen
239	2,477,329 kilograms
300/301	2,717,703 kilograms
333	41,757 dozen
335	333,775 dozen
347/348	2,131,079 dozen
Group II	
330, 332, 349, 353, 354, 359-0 [2], 431, 432, 439, 459, 630, 632, 633, 643, 644, 653, 654 and 659-0 [3] as a group.	109,488,034 square meters equivalent

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 359-0, all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 in Category 359-C; and 6103.19.2030, 6103.19.4030, 6104.12.0040, 6104.19.2040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.0044, 6110.90.0046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.4030, 6204.12.0040, 6204.19.3040, 6211.32.0070 and 6211.42.0070 in Category 359-V.

[3] In Category 659-0, all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014, 6114.30.3040, 6114.30.3050, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010 in Category 659-C; 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.8060 in Category 659-H; and 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 in Category 659-S.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-19759 Filed 8-21-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Requests for Bilateral Consultations With the Government of Bangladesh on Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products

August 15, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested, call (202) 377-3740.

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.

On July 30, 1989, the Government of the United States requested consultations with the Government of Bangladesh regarding textile products in Categories 351/651 and 847, produced or manufactured in Bangladesh.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Bangladesh, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from

warehouse for consumption of textile products in Categories 351/651 an 847, produced or manufactured in Bangladesh and exported during the twelve-month period which began on July 30, 1989 and extends through July 29, 1990, at levels of 206,298 dozen for Categories 351/651 and 228,956 dozen for Category 847.

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 351/651 and 847, or to comment on domestic production or availability of products included in these categories, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 351/651 and 847. Should such a solution be reached in consultations with the Government of Bangladesh, 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, 1989).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Bangladesh—Market Statement

Pajamas and Other Nightwear (Category 351/651)

July 20, 1989.

Summary and Conclusions

U.S. imports of pajamas and other nightwear (Category 351/651) from Bangladesh reached 206,298 dozen during the year ending April 1989, nearly 4 times the 56,988 dozen imported a year earlier. During the first four months of 1989, imports of pajamas and other nightwear (Category 351/651) from Bangladesh reached 59,608 dozen, almost 4 times the amount imported in the first four months of 1988. Imports from Bangladesh were 44,559 dozen in 1987 and 163,229 dozen in 1988.

The sharp and substantial increase in Category 351/651 imports from Bangladesh is disrupting the U.S. market for pajamas and other nightwear.

U.S. Production and Market Share

U.S. production of pajamas and other nightwear including infants has been on the decline since 1983, falling from 22,836,000 dozen in 1983 to 19,933,000 dozen in 1985, a 13 percent decline. U.S. production of pajamas and other nightwear declined from 17,078,000 dozen in 1986 to 14,093,000 dozen in 1988, a decline of 18 percent. The domestic manufacturers' share of the pajamas and other nightwear market dropped from 77 percent in 1986 to 71 percent in 1988.

U.S. Imports and Import Penetration

U.S. imports of pajamas and other nightwear (Category 351/651) more than doubled, increasing from 2,611,000 dozen in 1982 to 5,770,000 dozen in 1988. Imports continue to increase in 1989, up 12 percent in the first four months of 1989 over the same period in 1988. The ratio of imports to domestic production increased 10 percentage points in just two years, increasing from 31 percent in 1986 to 41 percent in 1988.

Duty-Paid Value and U.S. Producers' Price

Approximately 68 percent of Category 351/651 imports from Bangladesh during the first four months of 1989 entered under HTSUSA number 6207.21.0030—men's cotton nightshirts and pajamas, other than of yarn dyed fabric; 6207.22.0000—men's or boys' man-made fiber nightshirts and pajamas, other than of yarn dyed fabric; 6208.21.0020 women's cotton nightshirts and pajamas, other than of yarn dyed fabric. These nightshirts and pajamas entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable nightshirts and pajamas.

Bangladesh—Market Statement

Vegetable fiber, Other than Cotton, and Silk-Blend Trousers, Slacks and Shorts (Category 847)

July 26, 1989

Import Situation and Conclusion

U.S. imports of vegetable fiber (other than cotton) and silk-blend trousers, slacks and shorts (Category 847) from Bangladesh reached 228,956 dozen during the year ending April 1989, almost 6 times the 39,281 dozen imported a year earlier. During the first four months of 1989 imports of Category 847 from Bangladesh reached 159,455 dozen, over 7 times the 21,912 dozen imported during the same period in 1988 and almost double Bangladesh's imports for all of calendar year 1988.

Virtually all of the imports of trousers, slacks and shorts in Category 847 are of vegetable fiber, other than cotton, and compete directly with domestically produced cotton trousers, slacks and shorts (Category 347/348). The U.S. market for cotton trousers, slacks and shorts (Category 347/348) is being disrupted by imports.

Category 347/348 imports from Bangladesh have been under restraint since February 1, 1986. The sharp and substantial increase of Category 847 imports from Bangladesh is causing further disruption in the U.S. cotton trousers, slacks and shorts market.

Import Penetration and Market Share

U.S. production of cotton trousers, slacks and shorts (Category 347/348) fell 15 percent in 1988 to its lowest level in 13 years. The ratio of imports to production in Category 347/348 increased to 84 percent in 1988. The share of the cotton trousers, slacks and shorts market held by domestic manufacturers dropped to 54 percent in 1988.

U.S. imports of vegetable fiber, other than cotton, and silk-blend trousers, slacks and shorts (Category 847)—adjusted for 1987 overshipments—increased 38 percent from 1,653,741 dozen in 1987 to 2,287,800 dozen in 1988. When imports of the directly competitive Category 847 are included in the market analysis, the import to production ratio jumps to 94 percent and the domestic manufacturers' share of the market falls to 52 percent.

Duty-Paid Value and U.S. Producers Price

Approximately 95 percent of Category 847 imports from Bangladesh in the first four months of 1989 entered under HTS number: 6204.69.9040—women's and girls' trousers, breeches and shorts subject to other than cotton, wool or man-made fiber restraints. These trousers entered the U.S. at duty-paid landed values below U.S. producers' prices for directly competing cotton garments.

[FR Doc. 89-19699 Filed 8-21-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate; Determination of Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b)(2), it intends to renew on a noncompetitive basis a grant to the Council of Great Lakes Governors (CGLG) to organize and carry out a Regional Biomass Program in the Great Lakes Area of the Northern Tier States. The grant renewal will continue the project through August 31, 1990. The estimated amount is $290,000.

Procurement Request No.: 05–89OR21390.001.

Project Scope: This grant renewal is to continue a Regional Biomass Program in the Great Lakes Area of the Northern Tier States. The primary purpose is to implement biomass research and development, technology utilization, and technology transfer on a regional basis in the manner which will maximize the participation of the public and private sectors of each state. CGLC has the unique capability to equally represent all of the states in the Great Lakes subregion and involve the appropriate private and public interest groups in the states. CGLC is an existing, regionally organized consortium with background experience in management of similar activities. Eligibility for this award is, therefore, restricted to CGLG.

FOR FURTHER INFORMATION CONTACT: Lynda H. McLaren, Research Management Branch, Research & Laboratory, Waste Management Division, U.S. Department of Energy, Oak Ridge, TN 37831–8621 (615–576–1783).

Peter D. Dayton,

Director, Procurement and Contracts Division, Oak Ridge Operations.

[FR Doc. 89–19704 Filed 8–21–89; 8:45 am]

BILLING CODE 6450–01–M

Invention Available for License

The Department of Energy hereby announces that U.S. Patent No. 4,722,201, entitled "Acoustic Cooling Engine" is available for license, in accordance with 35 U.S.C. 207–209. For further information concerning licensing of the invention, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

A copy of the U.S. patent may be obtained, for a modest fee, from the U.S. Patent and Trademark Office, Washington, DC 20231.

Issued in Washington, DC, on August 14, 1989.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 89–19705 Filed 8–21–89; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee on Nuclear Facility Safety; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety.

Date & Time: Wednesday, September 6, 1989, 8:30 a.m. to 10:00 p.m.; Thursday, September 7, 1989, 8:30 a.m. to 3:00 p.m.

Place: U.S. Department of Energy, Savannah River Site—Main Entrance, Building 703–41A, Rainbow Conference Rooms, Aiken, South Carolina.

Contact: Wallace R. Kornack, Executive Director, ACNFS, S–2, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/586–1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

September 6, 1989

8:30 a.m., Chairman John F. Ahearne Opens Meeting Review of Reactor Restart Plan
Noon: Lunch
1:00 p.m., Review of Reactor Restart Issues
5:30 p.m., Meeting Adjourned until 8:00 p.m.
8:00 p.m.–10:00 p.m., Public Comment Session

September 7, 1989

8:30 a.m., Status Report on Waste Isolation Pilot Plant Subcommittee Reports
Noon, Lunch
1:00 p.m., Review of Selected Technical Issues
3:00 p.m., Meeting Ends

Public Participation: This meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Wallace R. Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 16, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89–19707 Filed 8–21–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF86–608–002]

Fort Howard Corp.; Errata Notice

August 16, 1989.

The following correction is made in column 2, 54 FR 32109 (August 4, 1989) to the Notice of Application for Commission Recertification of Qualifying Status of a Cogeneration Facility, issued July 31, 1989. The comment due date should have been 15 days from date of publication in the **Federal Register** in lieu of 30 days.

Lois D. Cashell,

Secretary.

[FR Doc. 89–19664 Filed 8–21–89; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 943–025]

Public Utility District No. 1 of Chelan County, WA; Availability of Environmental Assessment

August 16, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing (OHL) has reviewed the proposal for constructing the Similkameen River fish rearing facility for the Rock Island Project in Okanogan County, Washington. This facility is part of the mitigation defined in the Rock Island settlement agreement that was adopted by order of the Commission dated January 18, 1989, for the Rock Island Project. The staff of OHL's Division of Project Compliance and Administration has prepared an environmental assessment (EA) for the proposed action. In the EA, staff concludes that approval of construction of the proposed fish rearing facility would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19652 Filed 8-2189; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 943-027]

Public Utility District No. 1 of Chelan County, WA; Availability of Environmental Assessment

August 16, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing (OHL) has reviewed the proposal for constructing the Chiwawa River fish rearing facility for the Rock Island Project in Chelan County, Washington. This facility is part of the mitigation defined in the Rock Island settlement agreement that was adopted by order of the Commission dated January 18, 1989, for the Rock Island Project. The staff of OHL's Division of Project Compliance and Administration has prepared an environmental assessment (EA) for the proposed action. In the EA, staff concludes that approval of construction of the proposed fish rearing facility would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19653 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

Determinations Under the Natural Gas Policy Act for OCS Leases

Issued: August 16, 1989.

On September 27, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 336 under Docket Nos. RM83-3 and RM81-12 (48 FR 44,508 September 29, 1983). In that order, the Commission amended its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978 (NGPA). The determination process for natural gas produced from a new lease, i.e., a lease entered into on or after April 20, 1977, on the Outer Continental Shelf (OCS), and qualifying as new natural gas under section 102 of the NGPA, was amended in two respects. First, the Commission eliminated the requirement that a determination be made for each well producing gas from a new OCS lease. Second, in lieu of filing an application for each well, the Commission now permits the grant of a new OCS lease to constitute the requisite jurisdictional agency determination that the gas is produced from a new OCS lease.

Under the revised procedures, the U.S. Department of Interior, Minerals Management Service (MSS), must file within 60 days of the grant of the lease notice of determination which includes the lease number, the area and block number, and the date on which the OCS lease was issued by the Secretary of the Interior. The determination is subject to Commission review in the same manner as other jurisdictional agency determinations.

On July 25, 1989, the Commission received notice from MMS, Central Gulf of Mexico, that 5321 leases were issued as a result of OCS sale 118 for the Central Gulf of Mexico on March 15, 1989. Gas produced from the following leases has been determined to be gas produced from a new OCS lease under NGPA section 102:

Effective Date 04-01-89 Lease Nos. OCS-GX

632, 775, 782

Effective Date 05-01-89 Lease Nos. OCS-GX

540, 541, 548, 549, 551, 552, 556, 557, 559, 560, 566, 570, 573, 584, 585, 591, 592, 596, 597, 603, 604, 605, 615, 621, 624, 627, 628, 630, 631, 633, 635, 636, 637, 638, 640, 642, 644, 646, 653, 654, 655, 657, 659, 660, 661, 662, 665, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 688, 693, 698, 699, 700, 701, 704, 705, 714, 724, 725, 727, 734, 737, 740, 746, 751, 752, 757, 759, 764, 769, 770, 773, 774, 776, 785, 786, 787, 788, 791, 792, 794, 804, 811, 812, 815, 817, 818, 823, 826, 830, 837, 838, 839, 840, 841, 842, 845, 849, 853, 855, 856, 858, 864, 868, 869, 873, 877, 880, 881, 882, 891, 899, 901, 906, 911, 916, 943, 944, 946, 947, 948, 949, 950, 959, 960, 966, 977, 978, 980, 981, 982, 983, 984, 985, 986, 990, 993, 994, 995, 996, 997, 998, 999

Effective Date 05-01-89 Lease Nos. OCS-GY

000, 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 015, 016, 018, 019, 020, 021, 024, 025, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047, 048, 049, 050, 051, 052, 053, 054, 055, 056, 057, 058, 059, 060, 061, 062, 063, 064, 065, 066, 067, 068, 069, 071, 078, 079, 080, 081, 082, 083, 084, 085, 086, 087, 088, 089, 090, 091, 092, 093, 094, 095, 096, 121, 122, 125, 126

Effective Date 06-01-89 Lease Nos. OCS-GX

543, 544, 545, 546, 547, 550, 553, 554, 555, 562, 563, 564, 565, 567, 568, 569, 571, 572, 574, 579, 580, 594, 599, 606, 607, 610, 611, 612, 613, 614, 616, 617, 618, 619, 629, 639, 643, 645, 647, 648, 649, 650, 651, 652, 656, 663, 664, 666, 667, 668, 669, 670, 671, 684, 685, 686, 687, 691, 694, 695, 696, 697, 706, 707, 710, 711, 712, 713, 719, 720, 722, 723, 726, 728, 729, 730, 731, 743, 745, 753, 758, 760, 771, 779, 795, 808, 809, 816, 824, 825, 827, 828, 836, 844, 846, 850, 852, 860, 862, 865, 866, 870, 871, 883, 884, 885, 886, 887, 888, 890, 892, 894, 896, 897, 905, 907, 908, 909, 912, 913, 914, 915, 919, 920, 921, 922, 923, 924, 927, 937, 938, 945, 953, 955, 957, 958, 961, 962, 963, 965, 967, 968, 987, 992

Effective Date 06-01-89 Lease Nos. OCS-GY

075

Effective Date 07-01-89 Lease Nos. OCS-GX

558, 561, 576, 577, 581, 582, 583, 586, 587, 588, 589, 590, 593, 595, 598, 600, 601, 602, 608, 609, 620, 622, 623, 625, 626, 634, 641, 658, 702, 703, 709, 716, 717, 718, 721, 732, 733, 735, 736, 738, 739, 741, 742, 744, 747, 748, 749, 750, 754, 755, 756, 761, 762, 763, 765, 766, 767, 768, 772, 777, 778, 780, 781, 783, 784, 789, 790, 793, 796, 797, 798, 799, 800, 801, 802, 803, 805, 806, 807, 810, 813, 814, 819, 820, 821, 822, 829, 831, 832, 833, 834, 835, 843, 847, 851, 854, 857, 859, 861, 863, 872, 874, 875, 876, 878, 879, 893, 895, 898, 902, 903, 910, 917, 925, 926, 929, 930, 931, 932, 933, 934, 935, 936, 939, 940, 941, 942, 951, 952, 956, 964, 969, 970, 971, 972, 973, 974, 975, 976, 979, 988, 989, 991.

Effective Date 07-01-89 Lease Nos. OCS-GY

012, 013, 017, 022, 023, 026, 070, 072, 073, 074, 076, 077, 097, 098, 099, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 123, 124, 127, 128, 129, 130

The complete list of OCS leases submitted by the MMS for this sale, with area and block descriptions, is available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, DC. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within twenty days after this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19654 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1889-000]

ANR Pipeline Co.; Request Under Blanket Authorization

August 8, 1989.

Take notice that on August 1, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-1889-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Chevron U.S.A., Inc. (Chevron), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of

the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 3,000 dt equivalent of natural gas on a peak day, 3,000 dt equivalent on an average day and 1,095,000 dt equivalent on an annual basis for Chevron. ANR states that it would perform the transportation service for Chevron under ANR's Rate Schedule ITS. ANR indicates that it would transport the gas from receipt points in Louisiana, Oklahoma, and the offshore Louisiana and Texas gathering areas, to delivery points located in Iowa.

It is explained that the service commenced June 1, 1989, under the automatic authorization provisions of Section 284.223 of the Commission's Regulations, as reported in Docket No. ST89-4149. ANR indicates that no new facilities would be necessary to provide the subject service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-19655 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-44-013 and RP85-58-028]

El Paso Natural Gas Co.; Compliance Filing

August 15, 1989.

Take notice that on August 10, 1989, El Paso Natural Gas Company ("El Paso") tendered for filing pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Fourth Revised Sheet No. 210, Fifth Revised Sheet No. 212, Fifth Revised Sheet No. 213, and Second Revised Sheet No. 214, for inclusion in its FERC Gas Tariff, First Revised Sheet No. 1, in compliance with the Commission's order issued July 11, 1989 at Docket Nos. RP89-44-005 and RP85-58-018.

El Paso states that in compliance with the July 11, 1989 order, El Paso is submitting the tariff sheets to reinstate the 10,000,000 dth per year minimum annual purchase volume requirement in Rate Schedule ABD-L which will consequently return Gas Company of New Mexico ("GCNM") to Rate Schedule ABD-S since GCNM purchases less than 10,000,000 dth from El Paso annually. In connection therewith, El Paso also filed tariff sheets eliminating GCNM's Billing Determinants from Rate Schedule ABD-L.

El Paso respectfully requests, pursuant to § 154.51 of the Commission's Regulations, that waiver of the notice requirements of § 154.22 of the Commission's Regulations be granted, to the extent necessary, so as to permit the tendered tariff sheets to become effective July 1, 1988, the same date El Paso initially revised Rate Schedule ABD-L.

Copies of the filing were served upon all interstate pipeline system sales customers of El Paso and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before August 22, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19656 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8121-003]

Warren B. Nelson; Withdrawal of Intervention and Dismissal of Appeal

August 14, 1989.

By order issued November 18, 1988,[1] the Director, Office of Hydropower Licensing (Director), issued a license to Warren B. Nelson for the Deer Creek Project No. 8121. On December 19, 1988, Idaho Power Company (Idaho Power) filed a timely appeal of the Director's order.

Idaho Power contends in its appeal that the conclusion that the power to be produced by this project is needed is erroneous. However, on January 24, 1989, the United States Court of Appeals for the District of Columbia Circuit rejected similar arguments regarding need for power from a licensed project raised by Idaho Power in another proceeding involving a project in Idaho.[2] On April 24, 1989 Idaho Power filed a notice of withdrawal of its motion to intervene in the Project No. 8121 proceedings, stating that the issue it had raised in these proceedings had been resolved by the above-referenced court opinion and that, in light of the opinion, Idaho Power's intervention in the Project No. 8121 proceedings was no longer appropriate.

Pursuant to Rule 216(b) of the Commission's Rules of Practice and Procedure,[3] the withdrawl of any pleading is effective 15 days after notice of the withdrawal is filed, unless the withdrawal is opposed or the decisional authority disallows the withdrawal. No objections to Idaho Power's withdrawal were filed within 15 days of the filing date of the withdrawal. Conseauently, Idaho Power's withdrawal of intervention became effective on May 10, 1989.

Since Idaho Power is no longer an intervenor in or a party to the proceedings in Project No. 8121, its appeal in these proceedings are accordingly dismissed.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19657 Filed 8-21-89 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-33-000]

Northern Border Pipeline Co.; Informal Technical Conference

August 15, 1989.

Take notice that at 10:00 a.m. on September 6, 1989, there will be an informal technical conference in the above-captioned cause in the offices of the Commission, 810 1st Street, NE., Washington, DC 20426. It is the intent of the parties to discuss at this time any outstanding discovery requests, the general status of the proceeding, and any future procedures thought necessary. All parties may at their option attend, but mere attendance will not serve to make one a party to the

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[1] 45 FERC ¶ 62,139 (1988).

[2] *See* 42 FERC ¶ 61,072 (1988), *aff'd sub nom.* Idaho Power Company v. FERC, 865 F.2d 1313 (D.C. Cir. 1989).

[3] 13 CFR 385.216(b) (1988).

proceeding. A person must formally apply for party status pursuant to the Commission's Regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19658 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1849-000]

Northern Natural Gas Co., Division of Enron Corp.; Request Under Blanket Authorization

July 31, 1989.

Take notice that on July 21, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-1849-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to realign certain volumes to accommodate natural gas deliveries for Peoples Natural Gas, Division of Utilicorp United Inc. (Peoples), under the blanket certificate issued in Docket No. CP82-401-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to realign certain CD-1 entitlement volumes among existing delivery points at communities to be served by Peoples. Northern further stated that it is proposing, at People's request, to increase firm entitlements for six communities served by Peoples and to decrease firm entitlements for three communities served by Peoples. Northern advises that the proposed realignment of entitlements would not affect the total level of firm sales service provided by Northern to Peoples. Attached hereto is an appendix A which reflects the proposed change in entitlements.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

Appendix A

REALIGNMENT OF CD-1 ENTITLEMENT BY AFFECTED COMMUNITY FOR PEOPLES NATURAL GAS

(Volumes in Mcf)

Community, State	Existing CD	Proposed CD	Increase (decrease)
Council Bluffs, Iowa	19,507	19,632	125
Fort Crook, Nebraska	5,116	2,703	(2,413)
Spencer, Iowa	2,744	2,844	100
Fredricksburg, Iowa	555	655	100
New Hampton, Iowa	2,015	2,003	(12)
Eagan, Minnesota	5,041	5,146	105
Rosemount, Minnesota	3,851	4,901	1,050
Austin, Minnesota	119	64	(55)
Erie Mining and Hibbing, Minnesota	0	1,000	1,000
Total Realignment	38,948	38,948	0

[FR Doc. 89-19659 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA89-8-000]

Ozona Residue Systems Co.; Petition for Adjustment

August 15, 1989.

Take notice that on April 27, 1989, Ozona Residue Systems Company (Ozona) filed with the Federal Energy Regulatory Commission a petition for adjustment under Rule 1104 of the Commission's rules of practice and procedure and section 502(c) of the Natural Gas Policy Act of 1978 NGPA requesting, alternatively, (a) an order finding that Ozona is engaged solely in "gathering" and is therefore not subject to the Commission's Natural Gas Act jurisdiction; (b) approval of Ozona's proposed tariff on the grounds that the rate complies with §§ 284.123(b)(1)(ii) of the Commission's regulations; or (c) an adjustment allowing Ozona to use its proposed tariff for NGPA Section 311 transportation to avoid alleged special hardship and inequity.

The procedures applicable to the conduct of this adjustment proceeding are found in subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19660 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA86-83-002]

Public Service Company of Colorado; Filing

August 14, 1989.

Take notice that on July 24, 1989, Public Service Company of Colorado (PSC) tendered for filing its compliance report in compliance with the Settlement Agreement filed in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19661 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-68-000 et al.

Transcontinental Gas Pipe Line Corp.; Offers of Settlement and Notice Granting Shortened Comment Period

August 14, 1989.

In the matter of Docket Nos. RP88-68-000, RP87-7-012, RP87-7-000, RP89-122-000, RP89-123-000, RP89-163-000, TA88-1-29-000, TA88-4-29-000, TQ88-1-29-000, TA88-5-29-000, TQ89-1-29-000, TQ-2—29-000, TQ89-4-29-000, TA89-1-29-000, CP89-1915-000, CP89-1916-000, CP74-33-013, CP84-335-022, CP61-194-000, CP63-228-000, G-2432-000.

Take notice that on August 11, 1989, Transcontinental Gas Pipe Line Corporation (Transco) filed an Offer of Settlement in the captioned proceedings which is applicable to Transco's Rate Schedules G and OG customers, which are Signatory Parties to the Offer of Settlement. This Offer of Settlement generally tracks the comprehensive August 7, 1989 Offer of Settlement filed in these dockets by Transco and most of its larger customers. However, in addition, this Offer of Settlement includes a rate modification which Transco states is required by the historic rate design for Transco's smaller customers.

On August 11, 1989, Transco and National Fuel Gas Supply Corporation (National Fuel) filed an Offer of Settlement with the following major elements:

(1) Article I incorporates the terms and conditions of the August 7 Offer of Settlement except as modified by the terms of the revised Offer of Settlement;

(2) Article II provides that National Fuel elects to become a Settling Party as to Transco's Order No. 500 filings;

(3) Article III provides that National Fuel will permanently convert 100 percent of its firm sales service with Transco to long-term Rate Schedule FT firm transportation service;

(4) Article IV provides that the Commission shall approve the flow-through of all transportation rates and charges billed to National Fuel pursuant to the revised Offer of Settlement.

Transco states that the two Offers of Settlement, together with all attachments thereto, have been served pursuant to Rule 602(d)(1) upon all participants listed on the offical service lists in the captioned proceedings on file with the Commission, and upon all persons who were required to be served with Transco's rate filings which initiated several of the captioned proceedings.

Any persons not already parties to these proceedings which desire to file comments regarding the Offers of Settlement and the certificate authorizations sought in connection with the Offers of Settlement should, on or before August 21, 1989, file such comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 602(f)), together with a motion to intervene in accordance with the requirements of the Commission's Regulations under the Natural Gas Act (18 CFR 157,10 and 385.214).

In order to coordinate the procedural schedule for comments on the Offers of Settlement with the schedule previously established concerning comments on the August 7, 1989 settlement, and with the date for motions to intervene established above, initial comments on the Offers of Settlement should be filed on or before August 21, 1989, and reply comments should be filed on or before August 28, 1989.

Lois D. Cashell,

Secretary.

[FR Doc. 89-19662 Filed 8-21-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 89-28-NG]

Western Energy, Inc.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Western Energy, Inc. (WEI), blanket authorization to export natural gas from the United States to Mexico. The order issued in FE Docket No. 89-28-NG authorizes WEI to export up to 54.75 Bcf of gas for short-term and spot market sales over a two-year period beginning on the date of the first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on August 14, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-19706 Filed 8-21-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENT PROTECTION AGENCY

[FRL-3633-5]

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 US.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: TSCA Inspection-Related Forms (EPA ICR #0163.03; OMB #2070-0007). This is a request for reinstatement of a previously approved collection.

Abstract: To verify compliance with the Toxic Substance Control Act, section 11 authorizes EPA to inspect establishments used to manufacture, process, or store chemicals, EPA uses various forms, which are the subject of this collection request, to ensure that the Agency conducts inspections legally.

Burden Statement: The public reporting burden for this collection of information is estimated to vary from 5 to 30 minutes per response. This estimate included the time for reviewing instructions, and completing and reviewing the collection of information.

Respondents: Chemical manufacturers, processors, and storers.

Estimated No. of Respondents: 5700.

Estimated Total Annual Burden on Respondents: 1754 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460,

and,

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC. 20530.

Dated: August 10, 1989

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–19735 Filed 8–21–89; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3633–6]

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202–382–2740).

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburazation Vessels (Subpart AA and AAa). Information requirements. (EPA ICR No. 1060.05; OMB No. 2060–0038). (This is a reinstatement of a previously approved ICR).

Abstract: Sources must notify EPA of construction, modification, start-up, shutdown, malfunction, date and results of initial performance test. Owners/operators of affected facilities must install a continuous monitoring device to measure opacity, keep records of flow rate data and pressure data, and submit quarterly or semiannual reports of excess opacity, high fan motor amperage, and low flow rates. Electric Arc Furnaces subject to Subpart AA must also keep daily records of time and duration of each tap and charge. EPA uses these data to ensure compliance.

Burden Statement: The estimated average public burden for this collection of information is 25 hours for reporting and 310 hours for recordkeeping per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, and gathering and maintaining the data needed.

Respondents: Owners of steel plants/Operators of electric arc furnaces.

Estimated No. of Respondents: 48.

Estimated Total Annual Burden on Respondents: 17,333 hours.

Frequency of Collection: Semiannually.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460,

and,

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place SW., Washington, DC 20503 (Telephone (202) 395–3084).

Dated: August 9, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–19736 Filed 8–21–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3633–7]

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Monitoring Potential Arsenic Exposure Levels in Wood Treatment Plants (EPA ICR #1289.02; OMB #2070–0081). This submission requests reinstatement for a previously approved collection.

Abstract: According to the provisions of a final EPA position document, facilities that use inorganic arsenic to pressure treat wood must either monitor work areas for airborne concentrations of inorganic arsenic or provide employees with respirators. In addition, facilities must maintain records of monitoring results and submit them annually to EPA. The Agency uses these records to evaluate the effectiveness of the monitoring program and for enforcement purposes.

Burden Statement: The public reporting burden for this collection of information is estimated to average 50 minutes per response for non-monitoring plants and to vary from 17 to 19 hours per response for those who must monitor. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Arsenical wood treatment plants.

Estimated No. of Respondents: 165.

Estimated Total Annual Burden on Respondents: 578 hours.

Frequency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460

and,

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 1502.01; EPA's Asbestos-Related Supplement to the Department

of Energy's Commercial Buildings Energy Consumption Survey; was appproved 07/12/89; OMB # 2070-0104; expires 10/12/89.

Dated: August 10, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-19737 Filed 8-21-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3631-8]

Decisions Pursuant to the Clean Water Act

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of availability of decisions and notice of opportunity for public comment and petition.

SUMMARY: EPA, Region IX, has issued its decisions on the lists of waters, point sources, and pollutants submitted by the State of Arizona pursuant to section 304(1). Copies of these decisions can be obtained from the contract person identified below. EPA is accepting comments from the public on its proposals to modify the lists submitted by Arizona, and is accepting petitions from the public to list additional waters.

ADDRESS: Comments and petitions should be mailed to the following address: Ken Greenberg (W-5-1), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ken Greenberg at the address given above, or by telephone at (415) 974-9748.

SUPPLEMENTARY INFORMATION: Section 304(1) of the Clean Water Act as amended by the Water Quality Act of 1987 requires every State to develop lists of impaired waters, identify certain point sources and amounts of pollutants causing toxic impact, and to develop individual control strategies for each point source.

EPA is proposing to modify the lists of waters, sources, and pollutants submitted by Arizona. EPA is requesting comments from the public on these proposed additions and deletions. Comments are due by December 29, 1989, and should be sent to the address given above.

Pursuant to section 304(1)(3), EPA is accepting petitions from the public to make further additions to waters listed under section 304(1). Petitions must be received no later than December 29, 1989, and should be addressed to Harry Seraydarian, Director, Water Management Division, EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105. A copy of the petition should also be sent to the contact person named above. The petition should identify and describe the water proposed to be listed with sufficient detail so that EPA is able to determine the location and boundaries of the water. The petition must also identify the list or lists for which the waterbody qualifies, and contain supporting information or data to show that the water satisfies the criteria for listing.

The records documenting EPA's decisions regarding the submittal from the State of Arizona are on file and may be inspected at the EPA, Region IX, office between the hours of 9 a.m. and 4 p.m., Monday through Friday except holidays. To make arrangements to examine these records, contact the person named above.

Following the close of the comment period, EPA will consider the comments and petitions received and will provide a written response no later than June 4, 1990. This response to comments will be made available to the public in the same manner as today's notice.

Arizona did not submit any individual control strategies. Therefore, EPA will prepare the required individual control strategies, in cooperation with the State of Arizona, after EPA has taken final action on the lists.

Dated: August 7, 1989.

Keith Takata,

Acting Director, Water Management Division.

[FR Doc. 89-19739 Filed 8-21-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3633-8]

Public Water Supply Supervision Program; Program Revision for the State of South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of South Carolina is revising its approved State Public Water Supply Supervision Primary Program. South Carolina has adopted (1) drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water Regulations for eight volatile organic chemicals promulgated by EPA on July 8, 1987 (52 FR 25690) and (2) public notice regulations that correspond to the revised EPA public notice requirements promulgated on October 28, 1987 (52 FR 41534). EPA has determined that these two sets of State program revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted September 21, 1989 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made September 21, 1989, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective September 21, 1989.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Office of Environmental Quality Control, Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201; and

Regional Administrator, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Carla E. Pierce, EPA, Region IV, Drinking Water Section at the Atlanta address given above; telephone 404/347-2913, (FTS) 257-2913.

(Sec. 1413 of the Safe Drinking Water Act, as amended, (1986); and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Dated: August 14, 1989.

Lee A. Dehihns III,

Acting Regional Administrator.

[FR Doc. 89-19738 Filed 8-21-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Georgia Public Telecommunications Commission et al

1. The Commission has before it the following groups of mutually exclusive applications for four new FM stations:

Applicant	File No.	MM Docket No.
A. Georgia Public Telecommunications Commission; Roswell, GA.	BPED-870727MA	89-337
B. Lowell Maze Jackson; Roswell, GA.	BPH-870727MD	
C. Ivan M. Miles; Roswell, GA.	BPH-870727ME	
D. Johnson Broadcasting, Inc.; Roswell, GA.	BPH-870727MF	
E. George S. Flinn, Jr.; Roswell, GA.	BPH-870727MI	
F. Paul Uhry Mazo d/b/a Mazo Radio Co.; Roswell, GA.	BPH-870727MJ	
G. Robert W. Rounsaville; Roswell, GA.	BPH-870727MK	
H. Southern Radio Services, Inc.; Roswell, GA.	BPH-870727ML	
I. Roswell Broadcast Communications, Ltd.; Roswell, GA.	BPH-870727MM	
J. New Georgia Broadcasting, Ltd.; Roswell, GA.	BPH-870727MO	
K. Eathel Holley; Roswell, GA.	BPH-870727MQ	

Issue heading and applicants

1. See Appendix, D
2. See Appendix, D
3. See Appendix, D
4. See Appendix, D
5. Comparative, All
6. Ultimate, All

Applicant	File No.	MM Docket No.
II.		
A. Gary L. Acker d/b/a/ Good News Broadcasting; Wichita Falls, TX.	BPH-871110MQ	89-352
B. Ronald M. Campagna; Wichita Falls, TX.	BPH-871110MZ	
C. Wrangler FM Limited Partnership; Wichita Falls, TX.	BPH-871110NF	
D. Samwill Broadcasting; Wichita Falls, TX.	BPH-871110NH	
E. Fred R. Morton, Jr.; Wichita Falls, TX.	BPH-871110NV	

Issue heading and applicants

1. & 2. Real Party-in-Interest, C
3. Misrepresentation, C
4. Qualifications, C
5. Air Hazard, A, B, C
6. Financial, B, E
7. Cross-Interest, E
8. Comparative, A-E
9. Ultimate, A-E

Applicant	File No.	MM Docket No.
III.		
A. Jerry L. Roth d/b/a/ Richmond Hill Broadcasting; Richmond Hill, GA.	BPH-870819MG	89-353
B. G. Troy Mattox d/b/a/ Bryan County Broadcasting; Richmond Hill, GA.	BPH-870819MI	
C. Zephyr Communications Corp.; Richmond Hill, GA.	BPH-870819MK	
D. Georgia Broadcast Partnership; Richmond Hill, GA.	BPH-870819MQ	
E. MGT Limited; Richmond Hill, GA.	BPH-870819MV	
F. Anderson Bradcasting Co., Inc.; Richmond Hill, GA.	BPH-870819MC (Previously Dismissed)	
G. Saluki Broadcasting Corporation; Richmond Hill, GA.	BPH-870819MM (Previously Dismissed)	

Issue heading and applicant

1. (See Appendix), D
2. (See Appendix), D
3. (See Appendix), D
4. Qualifications, D
5. Financial, E
6. Comparative, A, B, C, D, E
7. Ultimate, A, B, C, D, E

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of thse issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix I (Roswell, Georgia)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of D (JBI).

2. To determine whether D (JBI's) organizational structure is a sham.

3. To determine whether D (JBI) violated Section 1.65 of the Commission's Rules, and/or lacked candor, by failing to timely report the designation of character issues against other applicants in which one or more of its partners has an ownership interest and/or the dismissal of such ownership interest and/or the dismissal of such applications with unresolved character issues pending.

4. To determine, from the evidence adduced pursuant to Issues 1 through 3 above, whether D (JBI) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix II (Wichita Falls, TX)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of C (Wrangler).

2. To determine whether C (Wrangler's) organizational structure is a sham.

3. To determine whether C (Wrangler) violated Section 1.65 of the Commission's Rules, and/or lacked candor, by failing to report the designation of character issues against other applicants in which one or more of its partners has an ownership interest and/or the dismissal of such ownership interest and/or the dismissal of such applications with unresolved character issues pending.

4. To determine, from the evidence adduced pursuant to Issues 1 through 3 above, whether C (Wrangler) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix III (Richmond Hill, GA)

Additional Issue Paragraphs

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of D (Georgia).

2. To determine whether D's (Georgia) organizational structure is a sham.

3. To determine whether D (Georgia) violated Section 1.65 of the Commission's Rules, and/or lacked candor by failing to report the designation of character issues against other applicants in which one or more of its partners has an ownership interest.

[FR Doc. 89-19647 Filed 8-21-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Gulfway and EMC/JSS Cross Space Charter & Sailing Agreement; Filing

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011141–008.

Title: Gulfway.

Parties: Lykes Bros. Steamship Co., Inc., Hapag Lloyd AG, Sea-Land Service, Inc., P&O Containers (TFL) Ltd., Deppe Linie GMBH, Gulf Container Line (GCL), BV Compagnie Generale Maritime (CGM), Nedlloyd Lijnen BV South Atlantic Cargo Shipping, N.V. Euro-Gulf International, Inc.

Synopsis: The proposed modification would clarify the parties' ability to discuss and agree upon their separate service contracts in the Agreement trade. It does not authorize joint service contracts and adherence to any agreement reached would be voluntary.

Agreement No.: 232–011204–001.

Title: EMC/JSS Cross Space Charter & Sailing Agreement.

Parties: Evergreen Merchant Marine Corporation (Taiwan) Ltd., Johnson Scanstar ("JSS").

Synopsis: The proposed modification would reduce the minimum space allocated to JSS on each sailing.

By Order of the Federal Maritime Commission.

Dated: August 16, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–19666 Filed 8–21–89; 8:45 am]

BILLING CODE 6730–01–M

Port of Portland and City of Long Beach; Terminal Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200275.

Title: Port of Portland Terminal Agreement.

Parties: Port of Portland (Port) Nippon Yusen Kaisha, Ltd. (NYK).

Synopsis: The Agreement provides NYK preferential use of a container yard (approx. 10 acres), a vessel berth and two container cranes located at Terminal 6, Port of Portland. The Port will perform all terminal stevedoring and other services required in the movement of containers and cargo on or over the premises. In consideration, NYK will use Terminal 6 for a minimum of 17 vessel calls per year for its Far East Express Service and guarantees the Port a minimum throughput of 18,000 containers in any of their Pacific Northwest services. Also, in lieu of the Port's Tariff rates for wharfage and dockage, NYK will pay the Port specific per container wharfage and dockage rates based on its volume at Terminal 6.

Agreement No.: 224–010736–003.

Title: City of Long Beach Terminal Agreement.

Parties: City of Long Beach (City), Long Beach Container Terminal, Inc. (LBCT).

Synopsis: The agreement amends the basic agreement (Agree No. 224–010736). The City assigns to LBCT: an exclusive preferential assignment of an office building at Berth 640, Pier A; and, a nonexclusive preferential assignment of the remainder of the terminal areas at Berths 3–4 and Berths 6–10, Pier A. The Agreement also provides for a new compensation formula and describes the improvements to be made by the City to the areas assigned.

By Order of the Federal Maritime Commission.

Dated: August 16, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–19667 Filed 8–21–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing of the Federal Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 5, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mr. Ulysses G. Auger,* Washington, DC; to acquire up to 15 percent of each class of common stock of James Madison Limited, Washington, DC, and thereby indirectly acquire Madison National Bank, Washington, DC; United National Bank of Washington, Washington, DC; Madison Bank of Maryland, Silver Spring, Maryland; and Madison National Bank of Virginia, McLean, Virginia.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *William G. Barron,* Owensboro, Kentucky; to acquire 14.07 percent of the voting shares of Indiana United Bancorp, Greensburg, Indiana, and thereby indirectly acquire The Peoples Bank, Portland, Indiana, and Union Bank and Trust Co., Greensburg, Indiana.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *River Valley Bancshares, Inc. Employee Stock Ownership Trust,* Lewistown, Missouri; to acquire 24.25 percent of the voting shares of River Valley Bancshares, Inc., Lewistown, Missouri, and thereby indirectly acquire Lewistown State Bank, Lewistown, Missouri.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice

President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Gail K. Mathisen,* Chanhassen, Minnesota; to acquire an additional 40.95 percent of the voting shares of St. James Bancorp, Inc., Chanhassen, Minnesota, as the result of a stock redemption, and thereby indirectly acquire Citizens State Bank of St. James, St. James, Minnesota, and Jackson State Bank, Minnesota.

2. *John C. Mithun,* Wayzata, Minnesota, to acquire 13.23 percent; Lewis M. Mithun, Wayzata, Minnesota, to acquire 26.46 percent; and Raymond O. Mithun, Jr., Wayzata, Minnesota, to acquire 26.46 percent of the voting shares of R.O.M. Financial Services, Inc., Wayzata, Minnesota, and thereby indirectly acquire State Bank of Chanhassen, Chanhassen, Minnesota.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Willie E. Bewer,* Bowie, Texas; to acquire 100 percent of the voting shares of Ryan Bancshares, Inc., Ryan, Oklahoma, and thereby indirectly acquire First State Bank, Ryan, Oklahoma.

F. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Charles R. Wiggins,* Liberty, Texas, and Hillary G. Wiggins, Liberty, Texas; to each acquire 29.19 percent of the voting shares of First Liberty National Bancshares, Inc., Liberty, Texas, and thereby indirectly acquire First liberty National Bank, Liberty, Texas.

G. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Bay Commercial Services Employee Stock Ownership Plan,* San Leandro, California; to acquire 2.61 percent of the voting shares of Bay Commercial Services, San Leandro, California, and thereby indirectly acquire Bay Bank of Commerce, San Leandro, California.

Board of Governors of the Federal Reserve System, August 16, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–19691 Filed 8–21–89; 8:45 am]

BILLING CODE 6210-01-M

Center Banks Inc., 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 September 8, 1989.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Center Banks Incorporated,* Skaneateles, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Skaneateles Savings Bank, Skaneateles, New York.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Alliance Bancorporation and Trimpe's Inc.,* Lisbon, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Lisbon Bank and Trust Company, Lisbon, Iowa.

2. *Peoples Financial Corp. of Illinois, Inc.,* Kewanee, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples National Bank of Kewanee, Kewanee, Illinois.

3. *Prairie State Bancorp, Inc.,* Danforth, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Danforth, Danforth, Illinois.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Blue Valley Ban Corp,* Leawood, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Blue Valley, Overland Park, Kansas.

2. *H. Pat Henson Company,* Maysville, Oklahoma; to acquire 90.8 percent of the voting shares of Peoples State Bank, Blair, Oklahoma, which engages in the sale of life and accident and health insurance directly related to credit extended by Peoples State Bank.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *East Texas Financial Corporation,* Kilgore, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank, Kilgore, Texas.

Board of Governors of the Federal Reserve System, August 16, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–19692 Filed 8–21–89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Docket No. 9214]

Lee M. Mabee, Jr., M.D.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Sioux Falls, S.D. physician from conspiring to interfere with the operation of the Medical School's OB/GYN department or faculty, or from preventing or restricting competition in the provision of OB/GYN care in the Sioux Falls, S.D., area.

DATE: Comments must be received on or before October 23, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael McNeely, FTC/S–3308, Washington, DC 20580. (202) 326–2904.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period

of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

The agreement herein, by Lee M. Mabee, Jr., M.D., hereafter referred to as Respondent, and Counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent is a licensed physician and doing business under and by virtue of the laws of the State of South Dakota, with his office and principal place of business located at the address listed in the complaint attached hereto.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging him with a violation of Section 5 of the Federal Trade Commission Act and has filed an answer to the complaint denying the charges.

3. Respondent admits all the jurisdictional facts set forth in the complaint attached hereto.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and, except to the extent described in Paragraph Three of this agreement, does not constitute an admission by Respondent that the facts as alleged in the complaint are true or that the law has been violated as alleged in the complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Respondent, (1) issue its decision containing the following Order to cease and desist in disposition of this proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to the address of the Respondent as stated in the complaint shall constitute service. Respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

8. Respondent has read the complaint and Order contemplated hereby. He understands that when the Order has been issued, he will be required to file one or more compliance reports showing he has fully complied with the Order. Respondent further understands he may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. "Respondent" means Lee M. Mabee, Jr., M.D.

B. "Medical School" means University of South Dakota School of Medicine.

C. "OB/GYN Center" means any medical facility or program established to provide obstetrical or gynecological care, research or education.

II

It is ordered, That the Respondent shall forthwith, directly, indirectly, or through any corporate or other device, in connection with the provision of health care services in or affecting commerce, as "commerce" is defined in section 4 of the Federal Trade Commission Act, as amended, cease and desist from entering into, attempting to enter into, organizing, continuing or acting in furtherance of any agreement or combination, either express or implied, with any physician(s), to refuse or threaten to refuse to deal with, or otherwise coerce, any person or entity for the purpose or with the effect of interfering with the operation of the academic or clinical programs of the Medical School's obstetrical/gynecological ("OB/GYN") department or faculty, or of preventing or restricting competition from any person or entity for the provision of OB/GYN care in the Sioux Falls, South Dakota, area, including but not limited to any agreement or combination to:

(1) Refuse or threaten to refuse to serve on the faculty of the Medical School;

(2) Make joint demands or joint decisions as to any term or condition for serving on the faculty of the Medical School;

(3) Refuse, or threaten to refuse, to refer patients to, receive referrals of patients from or provide any other form of professional cooperation to, any physician, based on his or her affiliation of prospective affiliation with the Medical School, or with any OB/GYN center, or on his or her treatment of, or attempts to attract, private patients;

(4) Interfere in a coercive manner with any attempt by the Medical School to recruit physicians to work in the Sioux Falls area, or to negotiate jointly with the Medical School concerning any term or condition with respect to its recruitment or hiring of such physicians;

(5) Refuse or threaten to refuse to admit patients to any hospital or other medical facility, based on the relationship of the hospital or facility with the Medical School, or based on the actual or prospective operation or funding, in whole or part, of any OB/GYN center by the hospital or facility; or

(6) Coerce the Medical School, any physician, or any other entity to eliminate, limit or restrict advertising for OB/GYN services in the Sioux Falls area.

Provided that nothing in this Order shall prohibit Respondent from entering into an agreement or combination with any physician with whom Respondent practices medicine in partnership or in a professional corporation, or who is employed by the same person as Respondent.

III

It is further ordered, That:

A. Respondent shall, within thirty (30) days after this Order becomes final, mail a copy of this Order and of the complaint in this proceeding to the Administrator, the Chairman of the Board of Directors, and the chief officer of the medical staff of Sioux Valley

Medical Center and McKennan Hospital, in Sioux Falls.

B. Respondent shall, within sixty (60) days after service of this Order, and at any time the Commission, by written notice, may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which Respondent has complied with this Order.

C. If Respondent, at any time, discontinues his present business or employment, he shall promptly notify the Commission of such discontinuance. In addition, for a period of seven (7) years after this Order becomes final, Respondent shall promptly notify the Commission whenever he enters into any new business or employment whose activities involve the provision of OB/GYN services in the Sioux Falls area. Each such notice shall include Respondent's new business address and a statement of the nature of the business or employment in which Respondent is newly engaged as well as a description of Respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from a physician practicing in Sioux Falls, South Dakota. The agreement would settle charges by the Commission that the physician, along with eleven other physicians in Sioux Falls, violated section 5 of the Federal Trade Commission Act by, among other things, concertedly refusing to teach residents in the University of South Dakota School of Medicine's (the "Medical School") residency program in obstetrics and gynecology in order to force the Medical School to limit the provision of obstetrical/gynecological care by members of its full-time faculty in competition with the physician. The other eleven physicians have previously signed a consent agreement with the Commission in *Certain Sioux Falls Obstetricians*, C-3241 (Oct. 11, 1988).

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

The Commission issued a complaint against Dr. Mabee on July 20, 1988. According to the complaint, the Medical School operates an obstetrics/gynecology ("OB/GYN") residency program in Sioux Falls and other locations in South Dakota. The Medical School has a full-time faculty of physicians employed by the school, including several physicians specializing in OB/GYN. In addition to teaching and conducting research, the full-time faculty engages in the practice of medicine through the Medical School's practice plan. The school depends to a large extent on a clinical faculty made up of private practitioners to teach both medical students and residents.

The complaint alleges that in 1985 the medical school expanded its OB/GYN residency program in Sioux Falls and was planning a further expansion, including hiring additional full-time faculty. According to the complaint, this expansion raised the prospect of increasing competition in Sioux Falls between the medical school's full-time OB/GYN faculty and the local private OB/GYN practitioners. In addition, the complaint alleges that the increased number of residents being trained in Sioux Falls would increase competition in the provision of OB/GYN care.

The complaint alleges that Dr. Mabee and all eleven other OB/GYNs in private practice in Sioux Falls, South Dakota, participated in a conspiracy to restrict competition from the full-time faculty and residents involved in the Medical School's OB/GYN residency program. For instance, Dr. Mabee and the other OB/GYNs, several of whom were on the Medical School's clinical faculty, signed a letter to the Medical School and the hospitals in Sioux Falls stating that they would not support the OB/GYN residency program. After the end of the school year, when their contracts expired, none of the private OB/GYNs in Sioux Falls participated in OB/GYN resident teaching. According to the complaint, the letter and other collective actions were an attempt by the private OB/GYNs in Sioux Falls to use their control over clinical faculty services needed by the Medical School to force it to limit competition with them. In furtherance of the conspiracy, the complaint alleges that the private OB/GYNs made numerous joint demands on the Medical School to limit competition from the OB/GYN residency as conditions of their participation in the residency program, and took other actions to restrict competition from the residency. In addition, the complaint alleges that the collective actions of the OB/GYNs significantly hindered the operation of the residency program and threatened its accreditation.

The complaint further alleges that the conduct of Dr. Mabee and the other OB/GYNs in Sioux Falls constitutes an unlawful conspiracy to eliminate or limit competition in the provision of OB/GYN care. It alleges that the purposes or effects of the combination or conspiracy have been to restrict competition for the provision of OB/GYN care and OB/GYN instruction among OB/GYNs in the Sioux Falls area, and thereby to deprive consumers of the benefits of competition.

The Proposed Consent Order

Part I of the order contains definitions of terms used in the order.

Part II of the order describes the conduct that the order prohibits. The order prohibits respondent from agreeing or combining with any physician to refuse, or threaten to refuse, to deal with any person for the purpose or with the effect of interfering with the operation of the Medical School's OB/GYN department or faculty, or of preventing or restricting competition in the provision of OB/GYN care in the Sioux Falls, South Dakota, area. Subsections (1) through (6) of Part II list several examples of the conduct that is prohibited by the order, including agreements or combinations to: (a) Refuse to serve on the faculty of the Medical School, (b) make joint demands on the Medical School, (c) refuse to refer patients to Medical School faculty, or receive referrals from Medical School faculty, (d) interfere in a coercive manner with recruiting by the Medical School for its full-time faculty, (e) refuse to admit patients to any hospital based on the relationship of the hospital with the Medical School, and (f) coerce the Medical School or any other person to limit advertising for OB/GYN services.

However, the order does not prohibit Dr. Mabee from engaging in concerted conduct with any physician with whom he practices medicine in partnership, or who is employed by the same employer as Dr. Mabee.

Part III of the order contains provisions relating to compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

This proposed consent order has been entered into for settlement purposes only and does not constitute an

admission by the respondent that the law has been violated as alleged in the complaint.

Donald S. Clark,

Secretary.

[FR Doc. 89-19740 Filed 8-21-89; 8:45 am]

BILLING CODE 6750-01-M

[File No. 882 3248]

Nutronics Corp., et al.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Longmont, Co. manufacturer of the Alter-Brake System (ABS) to have competent and reliable scientific research to substantiate its increased fuel-saving claims, and to cease misrepresenting that its ABS device has been approved by the government for sale to the public.

DATE: Comments must be received on or before October 23, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington DC 20580.

FOR FURTHER INFORMATION CONTACT: Claude C. Wild, III, Denver Regional Office, Federal Trade Commission, 1405 Curtis Street, Suite 2900, Denver, Co. 80202-2393. (303) 844-2271.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rule of Practice (16 CFR 4.9(b)(6)(ii).

The Federal Trade Commission having initiated an investigation of certain acts and practices of Nutronics Corporation and Gary Kelsay (hereafter sometimes referred to as "proposed respondents") and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from use of the acts and practices being investigated,

It is hereby agreed, By and between Nutronics Corporation, by its duly authorized officers, Gary Kelsay, and their attorney, and counsel for the Federal Trade Commission that:

1. Nutronics Corporation is a corporation organized and existing under the laws of the State of Nevada. It is qualified to do business in the State of Colorado as a foreign corporation with its office and principal place of business located at 700 Weaver Park Rd., Suite A, Longmont, Colorado 80501.

2. Gary Kelsay is President and CEO of proposed corporate respondent Nutronics Corporation. He formulates, directs and controls the acts and practices of said corporate respondent.

3. Proposed respondents admit all of the jurisdictional allegations set forth in the attached draft complaint.

4. Proposed Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, both it and the draft complaint will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, in disposition of the proceeding, and without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist, and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order, to proposed respondents' address as stated in this agreement, shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order of the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered, That respondents Nutronics Corporation and Gary Kelsay, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of the "Alter Break System" or any other "automobile retrofit device" (as that term is defined in section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011), in or affecting commerce (as that term is defined in the Federal Trade Commission Act), do forthwith cease and desist from:

a. Misrepresenting, directly or by implication, that the government has approved such device for sale to the public; or

b. Misrepresenting, directly or by implication, that any person or entity has confirmed that such device increases gas mileage, unless such person or entity has, in fact, confirmed that such device increases gas mileage in the stated percentages.

II

It is further ordered, That respondents, their successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of any automobile retrofit device in or affecting commerce do forthwith cease and desist from representing, directly or by implication, that any such device will or may improve fuel economy when installed in an automobile, truck, recreational vehicle, or other motor vehicle, unless at the time of making such representation respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; *Provided, however*, That:

(a) With respect to such representation, "competent and reliable" scientific evidence means tests, demonstrations, research, studies, surveys or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Respondents may use tests such as the then current Environmental Protection Agency Federal Test Procedure, 40 CFR Part 86, or Highway Fuel Economy Test, 40 CFR Part 600, or other tests of equivalent competency or reliability;

(b) When making any such representation, any material limitation on the applicability of the representation to certain vehicles, including but not limited to any limitation regarding the number of cylinders a vehicle must have in order for it to benefit from use of an automobile retrofit device, and any limitation regarding the minimum number of miles a vehicle must be driven before the represented benefits can be expected, shall be clearly and conspicuously disclosed.

III

It is further ordered, That respondents, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of any automobile retrofit device in or affecting commerce shall clearly and conspicuously display the following disclaimer when making any representation, directly or by implication, of improved fuel economy or performance through the use of any such device: "Reminder: The actual fuel savings or level of performance attained may vary, depending on the kind of driving you do, how you drive, and the condition of your car."

It is further ordered, That respondents, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of any automobile retrofit device in or affecting commerce do forthwith cease and desist from making any fuel savings claims which use the phrase "up to" or words of similar import unless the maximum level of savings or performance claimed can be achieved by an appreciable number of consumers, and, further, in any instances where consumers could not reasonably foresee the major factors or conditions affecting the maximum level of savings or performance, cease and desist from failing to disclose clearly and prominently the class of consumers who can achieve the maximum level of savings or performance.

V

It is further ordered, That respondents, their successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of any automobile retrofit device in or affecting commerce do forthwith cease and desist from making any claim regarding the length of time required to realize fuel savings equivalent to the cost of such automobile retrofit device, unless such claim is substantiated by results pursuant to Part II of this Order.

VI

It is further ordered, That respondents, their successors and assigns, shall, for three (3) years from the date any representation covered by this Order is disseminated, maintain and make available to the Federal Trade Commission for inspection and copying the following records:

(1) Dissemination schedules for all advertisements, sales promotional materials, and post-purchase materials containing the representation;

(2) All materials that were relied upon to substantiate the representation; and

(3) All tests, demonstrations, research, studies, surveys, or other evidence in respondents' possession or control that contradict, qualify, or call into question such representation or the basis upon which respondents relied for such representation.

VII

It is further ordered, That the respondents shall distribute a copy of this order without delay to all present and future personnel, agents, or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed statement acknowledging receipt of this order.

VIII

It is further ordered, That each respondent shall notify the Commission of any discontinuance of its present business and/or affiliation with any new business or employment for a period of three (3) years from the effective date of this order. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with such business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

IX

It is further ordered, That the corporate respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

X

It is further ordered, That respondents shall, within sixty (60) days after service of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted an agreement to a proposed consent order from Nutronics Corporation, of Longmont, Colorado, and its president and principal shareholder, Gary Kelsey (hereinafter jointly referred to as "respondents").

The proposed consent order has been placed on the public record for sixty (60)

days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Respondents manufacture and distribute a retrofit device called the Alter-Break System ("ABS"). The ABS disengages the alternator during period of acceleration, thereby momentarily decreasing the load on the engine. Respondents claim that fuel savings and increased engine performance will result from this decreased engine load.

A complaint prepared for issuance by the Commission together with the proposed consent order references the following six claims made by respondents and alleges that they are false and misleading: (1) That the ABS increases gas mileage from 12-28%; (2) That the ABS, through increased fuel economy, "will pay for itself in only a few months;" (3) That the ABS has been endorsed by the Department of Energy; (4) That the ABS has been endorsed by the Department of Commerce; (5) That the Department of Energy has conducted scientific tests on the ABS which substantiate a gas mileage increase of 24%; and (6) That the Department of Commerce has conducted scientific tests on the ABS which substantiate a gas mileage increase of 24%. In addition, it is alleged that at the time the claims were being made, respondents also misrepresented, directly or by implication, that they possessed and relied upon a reasonable basis for the claims.

The proposed consent order ("Order") is designed to prevent respondents from making any statistical fuel savings claims for the ABS unless they possess competent and reliable scientific evidence to support the claims. In addition to this general restriction, the Order: (1) Prevents respondents from making fuel savings claims using the phrase "up to," or words of similar import unless an appreciable number of consumers can achieve the maximum stated level of fuel savings or performance; (2) prevents respondents from making unsubstantiated claims that the device, through increased fuel savings, will pay for itself within a certain time period; and (3) requires the respondents to display a specified disclaimer along with any fuel savings or performance claims.

Additionally, the Order prevents respondents from misrepresenting, directly or by implication, that any governmental agency has approved the ABS system for sale to the public or that the government has confirmed the fuel savings claims being made.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-19741 Filed 8-21-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

[Transmittal No. 87-45]

Aid to Families With Dependent Children AFDC) Program; Hearing for the New York Disapproval of the State's Proposed State Plan Amendment

AGENCY: Family Support Administration, Department of Health and Human Services.

ACTION: Notice of hearing.

SUMMARY: By designation of the Family Support Administration, a member of the Departmental Appeals Board will hold a hearing pursuant to 45 CFR part 213 concerning the Family Support Administration's disapproval of a State Plan amendment submitted by New York.

EFFECTIVE DATE: The hearing will be held at 11:00 a.m. on September 22, 1989 at the Jacob Javitz Federal Building, Room 305A, 26 Federal Plaza, New York, New York 10278.

REQUESTS TO PARTICIPATE: Request to participate as a party must be submitted to the Departmental Appeals Board in the form specified at 45 CFR 213.15(b)(2) September 6, 1989. Requests to participate as *amicus curiae* must be submitted to the Departmental Appeals Board in the form specified at 45 CFR 213.15(c)(1) before the commencement of the hearing.

FOR FURTHER INFORMATION CONTACT: Sara Anderson, Staff Attorney, Departmental Appeals Board, Department of Health and Human Services, Room 635-F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, telephone: (202) 475-0344.

SUPPLEMENTARY INFORMATION: Notice of hearing is hereby given as set forth in the following letter, which has been sent to the New York Department of Social Services on July 31, 1989.

Ms. Ilene R. Bergman, Assistant Counsel, Bureau of Deferrals and Disallowances, 40 North Pearl Street, 10-C, Albany, New York 12243,

and,

Ms. Elizabeth Dusaniwskyj, Regional Counsel, Region II, Department of Health and Human Services, Room 3908, 26 Federal Plaza, New York, New York 10278.

Counsel:

This letter is in response to the June 26, 1989 request for reconsideration filed by the New York Department of Social Services (State) in which it seeks reconsideration of the Family Support Administration's (FSA) disapproval of the State's proposed State Plan amendment submitted as Transmittal No. 87-45.

In the proposed amendment to the State's plan for implementing Title IV-A of the Social Security Act under the Aid to Families with Dependent Children (AFDC) program, the State sought to validate the preexistent Emergency Assistance Rehousing Program (EARP), which provides for bonus payment to landlords, as of January 1, 1988, via its inclusion in the State Plan.

Pursuant to 45 CFR 213.21, I have designated Donald F. Garrett, a Departmental Appeal Board Member, to preside at the hearing, which will be conducted under the procedures in 45 CFR part 213. Pursuant to 45 CFR 201.4, a hearing has been scheduled to be held at 11:00 A.M. September 22, 1989 in Room 305A, Jacob Javitz Federal Building, 26 Federal Plaza, New York, New York 10278. A verbatim transcript will be taken.

The issues to be considered at the hearing include:

1. Whether the State Plan amendment violates the regulatory requirement that the needs of an AFDC family are to be determined on an "objective" basis (45 CFR 233.20(a)(1)(i)).

2. Whether the State Plan amendment violates the requirement that special need items be considered for all applicants and recipients requiring them (45 CFR 233.20(A)(2)(v)).

3. Whether the State Plan amendment violates the equitable treatment provisions at 45 CFR 233.10(a).

4. Whether section 1119 of the Act demonstrates that Congress had not intended for Title IV-A funds to be used to reimburse states for assistance to landlords, especially for such amounts as are involved in EARP.

A copy of this letter will appear as a Notice in the **Federal Register** and any person wishing to request recognition as a party will be entitled to file a petition

pursuant to 45 CFR 213.15(b) with the Department Appeals Board within 15 days after that notice has been published. A copy of the petition should be served on each party of record at that time. The petition must explain how the issues to be considered at the hearing have caused them injury and how their interest is within the zone of interests to be protected by the governing Federal regulations at 45 CFR 213.15(b)(1). In addition, the petition must concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesss in accordance with 45 CFR 213.15(b)(2). Any party may, within 5 days of receipt of such petition, file comments thereon; the presiding officer will subsequently issue a ruling on whether and on what basis participation will be permitted.

Any interested person or organization wishing to participate as *amicus curiae* may also file a petition with the Board, which shall conform to the requirements at 45 CFR 213.15(c)(1).

Any further inquires, submissions, or correspondence regarding this matter should be filed in an original and two copies with Mr. Garrett at the Departmental Appeals Board, Room 637-D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, where the record in this matter will be kept. Each submission must include a statement that a copy of the material has been sent to the other party, identifying when and to whom the copy was sent. For convenience please refer to Board Docket No. 89-143.

Sincerely,

Catherine Bertini,

Acting Assistant Secretary

Dated: August 15, 1989

Catherine Bertini,

Acting Assistant Secretary, Family Suppport Administration.

[FR Doc. 89-19665 Filed 8-21-89; 8:45 am]

BILLING CODE 4150-04-M

Health Resources and Services Administration

Program Announcement for Retention Program for Health Professions Schools With Individuals From Disadvantaged Backgrounds Grant

The Health Resources and Services Administration announces that applications for Fiscal Year 1990 Retention Program for Health Professions Schools With Individuals From Disadvantaged Backgrounds Grants are being accepted under the authority of section 787A of the Public Health Service Act as established by Public Law 100-607.

Section 787A authorizes a supplemental grant program to award grants to schools of medicine, schools of osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, or public health that demonstrate sufficient graduation of students from disadvantaged backgrounds. Such an institution will be eligible for funds under this section if it can demonstrate graduation of students from disadvantaged backgrounds at rates that are at least 90 percent of the graduation rate for nondisadvantaged students.

The Administration's budget request for Fiscal Year 1990 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Formulas determining eligibility and reward levels are specified in the legislative authority. All applicant institutions meeting the eligibility requirements as provided by section 787A shall receive an equitable portion of appropriated funds. To be eligible for a grant, an institution must have a disadvantaged graduate figure, as defined below, which exceeds the nondisadvantaged graduate figure.

The amount awarded to each eligible institution shall be determined by: Dividing the total amount of available funds by the number of disadvantaged students who graduated from eligible institutions during the preceding fiscal year. This quotient is then multiplied by the number of students from disadvantaged backgrounds who graduated from the eligible institution during the preceding fiscal year to determine the amount of the grant.

Definitions

As used in this notice: *Disadvantaged graduate figure* is the quotient obtained by dividing the number of students from disadvantaged backgrounds who graduate from the institution as a part of such class by the number of students from disadvantaged backgrounds who matriculated into the same class at the institution.

Nondisadvantaged graduate figure is 90 percent of the quotient obtained by dividing the number of nondisadvantaged graduates from an institution as part of a class by, the number of nondisadvantaged students who matriculated into the same class at that institution.

Individual from a disadvantaged background means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from a health professions school or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purposes of the Retention Program for Health Professions Schools With Individuals From Disadvantaged Background Grants for Fiscal Year 1990:

Size of parents family [1]	Income level [2]
1	$7,900
2	10,300
3	12,300
4	15,700
5	18,500
6 or more	20,800

[1] Includes only dependents listed on Federal income tax forms.

[2] Rounded to $100 adjusted gross income for calendar year 1988.

Grants awarded to eligible applicants may be used by the grantee institution for the following purposes:

(1) *Financial aid.* Financial aid services (including direct student aid in the form of traineeships) for disadvantaged students who enrolled at the grantee health professions school, to complete their education; and

(2) *Retention.* Activities designed to help student participants from disadvantaged backgrounds, who have been accepted to, or are enrolled in health professions schools, to complete their education. Such activities may include tutorial assistance, counseling, and assistance in adjusting to the environment of the school.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building,

Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857.

Completed applications should be mailed to the Grants Management Officer at the above address.

Questions regarding programmatic aspects of this grant program should be directed to: Chief, Analysis and Evaluation Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–3680.

The application deadline is October 4, 1989. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Postmarked on or before the deadline, and received in time for review. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline will be returned to the applicant.

The standard application form and general instructions PHS 6025–1, HRSA Competing Training Grant Application has been approved by the office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. The supplemental instructions have been submitted for OMB approval.

This program is not listed in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100).

Dated July 25, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–19694 Filed 8–21–89; 8:45 am]

BILLING CODE 4160–15–M

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency Holding the Meeting: Federal Council on the Aging.

Time and Date: Meeting begins at 9:00 a.m. and ends at 5:00 p.m. on Wednesday, August 30, 1989, and begins at 9:00 a.m. and ends at 4:30 p.m. on Thursday, August 31, 1989.

Place: On Wednesday, Augsut 30, Lewis Room, The Holiday Inn-Capitol, 550 C Street, SW., Washington, DC., from 9:00 a.m. to 5:00 p.m., and Thursday, August 31, Lewis Room The Holiday Inn-Capitol, from 9:00 a.m.—4:30 p.m.

Status: Meeting is open to the public.

Contact Persons: Barbara Forte, Room 4280, Wilbur Cohen Federal Building, 245–2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub.L. 92–453, 5 U.S.C. App. 1, Section 10, 1976) that the Council will hold its August quarterly meeting on August 30 & 31, 1989, from 9:00 a.m.—5:00 p.m. and from 9:00 a.m.—4:30 p.m. respectively, in the Lewis Meeting Room of the Holiday Inn-Captitol Hotel, 550 C Street, SW., Washington, DC. 20024. On August 30, the Council will open its regular meeting and then proceed with a Forum on Education and Employment for Women and the Elderly.

The agends for a Forum on Education and Employment for Women and the Elderly is as follows: Witnesses before the Council will include: Jane Marden, Director of Consumer Affairs, American Gas Association; Anita Stowell, American Association of Retired Persons; Representatives from the Edison Electric Institute, and the U.S. Department of Labor.

The rest of the two-day meeting will include discussion of Current Projects, Committee Reports, Agenda Projects and other matters as they relate to the aging population.

Dated: August 15, 1989.

Ingrid Azvedo,

Chairperson, Federal Council on the Aging.

[FR Doc. 89–19728 Filed 8–21–89

BILLING CODE 4130–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–09–4320–08]

Management Framework Plan; Price River Resource Area Plan; UT

AGENCY: Bureau of Land Management, Moab, Interior.

ACTION: Decision Record—Plan amendment for Price River Resource Area Plan, Emery County, Utah.

SUMMARY: This decision record advises the public that the Bureau of Land Management (BLM) has amended an existing Management Framework Plan.

SUPPLEMENTARY INFORMATION: An amendment to the Price River Resource Area Management Framework Plan (MFP) was signed by the Utah State Director on July 17, 1989. In the original MFP, approved September 2, 1983, there was a resource allocation conflict between domestic livestock and wild bighorn sheep in six grazing allotments. The conflict was resolved in favor of the existing domestic livestock grazing permits. This decision precluded augmentation of bighorn sheep population. The grazing preference on four of the six allotments was relinquished by the grazing permittees after a negotiated settlement with the Utah Division of Wildlife Resources. Relinquishment of the grazing permits eliminated the domestic sheep/wild sheep conflict and rendered portions of the MFP meaningless.

The plan amendment provides the four allotments; Bighorn, Elliott Mountain, River, and Pack Trail be managed for wild land values, including bighorn sheep, riparian, and recreation. Grazing of domestic livestock is limited to trailing and recreational pack stock. The amendment provides for the same management of the Last Chance and Price River South allotments should the grazing preference be relinquished or otherwise lost on these allotments during the life of the plan. Scope of the amendment is limited to forage allocation. The area affected by this amendment is located in northeastern Emery County, Utah. The area encompasses approximately 123,500 acres of public land and 13,000 acres of state and private lands. The allotments are mostly within the Desolation Canyon (UT–068A) and Turtle Canyon (UT–067) Wilderness Study Areas.

The plan amendment and accompanying environmental assessment and Finding of No Significant Impact are available for public inspection at the Price River Resource Area. For further information, contact Mark Bailey, Price River Resource Area Manager, 900 North 700 Est, Price, Utah 84501 or call (801) 637–4584. Persons who have participated in the planning process may protest the amendment to the Director, Bureau of Land Management. Protests must be in accordance with 43 CFR 1610.5–2 and

must be filed within thirty days of the publication of this notice.

James M. Parker,

Utah State Director.

[FR Doc. 89-19742 Filed 8-21-89; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-020-9-4212-14; AZA-23855 through AZA-23861]

Realty Action; Competitive Sale of Public Land in Yavapai County, Arizona

The Bureau of Land Management will offer seven tracts of land for public sale. These tracts are located near Wickenburg, Arizona. The sale of these tracts is consistent with Section 203 of the Federal Land Policy and Management Act of October 21, 1976. These tracts will be sold at no less than the appraised fair market value. The subject lands are located at:

Gila and Salt River Meridian, Arizona

Serial Nos.		Acres
AZA-23855	T. 8 N., R. 5 W., Sec. 15, NE¼NE¼NW¼.	10.00
AZA-23856	T. 8 N., R. 5 W., Sec. 15, SE¼NE¼NW¼.	10.00
AZA-23857	T. 8 N., R. 5 W., Sec. 15, W½NE¼NW¼.	20.00
AZA-23858	T. 8 N., R. 5 W., Sec. 15, NW¼NW¼.	40.00
AZA-23859	T. 8 N., R. 5 W., Sec. 15, N½SW¼NW¼.	20.00
AZA-23860	T. 8 N., R. 5 W., Sec. 15, W½/SE¼NW¼.	20.00
AZA-23861	T. 8 N., R. 5 W., Sec. 15, E½SE¼NW¼.	20.00

The above description totals 140.00 acres of land in Yavapai County.

Federal law limits sale of this land to United States citizens, corporations subject to the laws of any State or of the United States, States, State instrumentalities or political subdivisions authorized to hold property, and any entity legally capable of conveying and holding lands or interests therein under the laws of the State within which the lands to be conveyed are located. The purchaser is deemed to be the individual(s) or corporation that will actually take title to the land from the government; the citizenship limitation does not apply to agents who bid on behalf of an associate, client or employer.

All of the parcels listed will contain the following reservations when patented:

1. A right-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.)

2. A reservation of all oil and gas to the United States with the right to prospect for, mine, and remove such deposits.

The following tracts will be sold subject to the following:

1. Parcels AZA-23855—AZA-23861 will be sold subject to BLM road right-of-way A-18698.

2. AZA-23859 will be sold subject to BLM road right-of-way A-18699.

The successful bidder will also be required to purchase the mineral estate at the time of final payment.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of non-discretionary appropriation under the public land laws, including the mining laws, except the mineral leasing laws, for a period of 270 days or until the lands are sold. The segregative effect may otherwise be terminated by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 270 day period.

Additional information regarding these tracts of land will be contained in the sales brochure made available at least 30 days prior to the sale. This additional information includes: 1. Sealed bid instructions; 2. Times of first sealed bid opening; 3. Appraised fair market value of the tracts; 4. Any reservations or terms and conditions that apply to the tracts of land; 5. Maps showing the location of the tracts of land; 6. Requirements of parties wishing to bid; and 7. Payment procedures for the successful bidder.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior. Comments regarding this action or requests for additional information should be sent to the Phoenix District, 2015 W. Deer Valley Road, Phoenix, Arizona 85027.

Dated: August 16, 1989.

Henri R. Bisson,

District Managers.

[FR Doc. 89-19675 Filed 8-21-89; 8:45 am]

BILLING CODE 4310-32-M

[NM-010-9-5420-10-ZGKJ/GP-0115; NM NM 80786]

Albuquerque District, Issuance of Disclaimer of Interest to Land in New Mexico

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice of intent to issue a disclaimer of interest.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of the Federal Land Policy and Management Act (FLPMA) of 1976, section 315, 43 U.S.C. 1745, does hereby disclaim and release to F.H. Parks and Louise S. Parks all interests in both the surface and mineral estate in the land described below.

A certain tract of land situated within section 36, T. 11 N., R. 5 E., NMPM, Bernalillo County, New Mexico, being and comprising the East portion of Small Holding Claim No. 1918, Lot 2 in said section (less right-of-way for State Highway) and being more particularly described as follows:

Beginning at the Northwesterly corner of said tract, being a point on the East right-of-way of State Highway 14, whence the Easterly section corner common to Sections 35 and 36 bears N. 53°23'25" W., 727.81 feet distant; thence from said point of beginning; leaving said right-of-way S. 78°08'30" E., 297.45 feet to the Northeast corner; thence S. 16°34'41" W., 136.06 feet to the Southeast corner; thence N. 79°10'30" W., 278.76 feet to the Southwest corner; a point on said Easterly right-of-way of State Highway 14; thence along said right-of-way along a curve to the right; having a radius of 1,225.78 feet, a distance of 140.90 feet to the point of beginning and containing 0.909 acre more or less.

After review of the official records and other title evidence, it has been determined by the Bureau of Land Management that the above described land is a portion of Lot 2, Small Holding Claim No. 1918 that was patented out of Federal ownership on March 19, 1906. The patent was filed for record on April 7, 1911, and recorded on April 10, 1911, in Book 5C, Page 33, Bernalillo Courthouse, Albuquerque, New Mexico.

The Bureau of Land Management has determined that the United States has no interest in the above described land.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments on this disclaimer may present their views in writing to the District Manager, Albuquerque District Office, 435 Montano NE, Albuquerque, New Mexico

87107. If no protests are received within the time allowed, the disclaimer will be issued.

Dated: August 11, 1989.

Monte G. Jordan,

Associate State Director.

[FR Doc. 89-19695 Filed 8-21-89; 8:45 am]

BILLING CODE 4310-FB-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that FMP Operating Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4897, Block 46, South Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on August 14, 1989. Comments must be received on or before September 6, 1989 Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of title 30 of the CFR.

Dated: August 15, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-19743 Filed 8-21-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Acadia National Park, Bar Harbor, ME; Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commitee Act (Pub. Law 92-463. 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that a meeting of the Acadia National Park Advisory Commission will be held on Monday, September 11, 1989.

The Commission was established pursuant to Public Law 99-420, Sec. 103. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the Park, including but not limited to the acquisition of lands and interests (in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at Acadia National Park Headquarters, McFarland Hill, Bar Harbor, Maine, at 1:00 p.m. to consider the following agenda:

1. Old Business.
2. New Business:
   A. Committee reports—
      Acquisition—Criteria for setting Priorities in Land Protection Plan.
      Easement—Criteria for accepting Easements on Mount Desert Island.
   B. General Management Plan
   C. Needs Assessment
3. Proposed agenda and date of next Commission meeting.

The Commission meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609.

Dated: August 15, 1989.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 89-19754 Filed 8-21-89; 8:45 am]

BILLING CODE 4310-70-M

Farmington Wild and Scenic River Study, Massachusetts and Connecticut, Farmington River Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 s 10), that a meeting of the Farmington River Study Committee will be held Thursday, September 14, 1989.

The Committee was established pursuant to Public Law 99-590. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of two segments of the Farmington River.

The meeting will convene at 7:30 p.m. at the Canton Town Hall, Canton, Connecticut, for the following reasons:

1. Approval of minutes of 6/8/89 meeting
2. Report on Budget Status
3. Update on Resource Assessment and Report from Eligibility Subcommittee
4. Report from Water Resources Subcommittee
5. Report from River Conservation Planning Subcommittee
6. Review of proposed themes/goals for the study and the river conservation plan
7. Opportunity for public comment
8. Other business.

It is anticipated that about 100 people will be able to attend the session in addition to the Committee members.

Interested persons may make oral/written presentations to the Committee or file written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from the

Public Affairs Officer, National Park Service, North Atlantic Region, 15 State Street, Boston, Massachusetts 02109 (617) 223–5199.

Dated: August 15, 1989.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 89–19755 Filed 8–21–89; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 12, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by September 6, 1989.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Pulaski County

Rock Island—Argenta Depot, 4th and Hazel, North Little Rock, 89001403

FLORIDA

Leon County

Covington House, 328 Cortez St., Tallahassee, 89001386

INDIANA

Marion County

Indiana World War Memorial Plaza, Bounded by St. Clair, Pennsylvania, Vermont, and Meridian Sts., Indianapolis, 89001404

University Park, Bounded by Vermont, Pennsylvania, New York, and Meridian Sts., Indianapolis, 89001405

KANSAS

Reno County

Fox Theater, 18 E. First, Hutchinson, 89001391

LOUISIANA

Morehouse Parish

Excelsior, LA 133, Oak Ridge, 89001387

MASSACHUSETTS

Norfolk County

Alden, Arthur, House (Quincy MRA), 24 Whitney Rd., Quincy, 89001382

Bainbridge, Randolph, House (Quincy MRA), 133 Grandview Ave., Quincy, 89001340

Barker, George A., House (Quincy MRA), 74 Greenleaf St., Quincy, 89001345

Barker, Henry F., House (Quincy MRA), 103 Greenleaf St., Quincy, 89001346

Barnes House (Quincy MRA), 183 Pine St., Quincy, 89001382

Barnicoat, S.H., Monuments (Quincy MRA), 114 Columbia St., Quincy, 89001325

Bateman, William R., House (Quincy MRA), 148 Monroe Rd., Quincy, 89001359

Baxter Street Historic District (Quincy MRA), Roughly 19–34 Baxter St., Quincy, 89001309

Bethany Congregational Church (Quincy MRA), 8 Spear St., Quincy, 89001374

Brown-Hodgkinson House (Quincy MRA), 42 Bicknell St., Quincy, 89001319

Building at 1–7 Moscow Street (Quincy MRA), 1–7 Moscow St., Quincy, 89001360

Building at 51 Hunt Street (Quincy MRA), 51 Hunt St., Quincy, 89001355

Burgess, Charles H., House (Quincy MRA), 17 Whitney Rd., Quincy, 89001381

Burgess, Frank, House (Quincy MRA), 355 Highland Ave., Quincy, 89001354

Burgin, Clarence, House (Quincy MRA), 95 President's Ln., Quincy, 89001364

Central Fire Station (Quincy MRA), 26 Quincy Ave., Quincy, 89001371

Christ Church (Quincy MRA), 14 Quincy St., Quincy, 89001369

Christ Church Burial Ground (Quincy MRA), 54–60 School St., Quincy, 89001372

Coddington School (Quincy MRA), 26–44 Coddington St., Quincy, 89001323

Crane, Frank W., House (Quincy MRA), 11 Avon Way, Quincy, 89001312

Curtis, Noah, House (Quincy MRA), 313 Franklin St., Quincy, 89001335

Curtis, Thomas, House (Quincy MRA), 279 Franklin St., Quincy, 89001334

Davis, Dr. Frank, House (Quincy MRA), 25 Elm St., Quincy, 89001330

Dicey, Russell M., House (Quincy MRA), 56 Pope St., Quincy, 89001363

Dogget, Solon, House (Quincy MRA), 50 Union St., Quincy, 89001379

Dorothy Q Apartments (Quincy MRA), 36 Butler Rd., Quincy, 89001322

Elks Building (Quincy MRA), 1218–1222 Hancock St., Quincy, 89001348

Faxon House (Quincy MRA), 310 Adams St., Quincy, 89001310

First Baptist Church of Wollaston (Quincy MRA), 187 Warren Ave., Quincy, 89001380

Fore River Club House (Quincy MRA), Follett and Beechwood Sts., Quincy, 89001333

Glover House (Quincy MRA), 249 E. Squantum St., Quincy, 89001328

Granite Trust Company (Quincy MRA), 1400 Hancock St., Quincy, 89001351

Halloran, John, House (Quincy MRA), 99 E. Squantum St., Quincy, 89001327

Hardwick House (Quincy MRA), 59–61 Spear St., Quincy, 89001376

Hersey, Ebenezer B., House (Quincy MRA), 57 Coddington St., Quincy, 89001324

House at 105 President's Lane (Quincy MRA), 105 President's Ln., Quincy, 89001365

House at 15 Gilmore Street (Quincy MRA), 15 Gilmore St., Quincy, 89001336

House at 20 Sterling Street (Quincy MRA), 20 Sterling St., Quincy, 89001377

House at 23–25 Prout Street (Quincy MRA), 23–25 Prout St., Quincy, 89001367

House at 25 High School Avenue (Quincy MRA), 25 High School Ave., Quincy, 89001352

House at 32 Bayview Avenue (Quincy MRA), 32 Bayview Ave., Quincy, 89001314

House at 92 Willard Street (Quincy MRA), 92 Willard St., Quincy, 89001383

House at 94 Grandview Avenue (Quincy MRA), 94 Grandview Ave., Quincy, 89001339

Jewell, David L., House (Quincy MRA), 48 Grandview Ave., Quincy, 89001338

Lennon, Edward J., House (Quincy MRA), 53 Taber St., Quincy, 89001378

Marsh, Charles, House (Quincy MRA), 248 President's Ln., Quincy, 89001366

Marsh, Edwin W., House (Quincy MRA), 17 Marsh St., Quincy, 89001356

McIntire, Herman, House (Quincy MRA), 55 Dixwell Ave., Quincy, 89001326

Miller, Edward, House (Quincy MRA), 36 Miller Stile Rd., Quincy, 89001358

Monroe Building (Quincy MRA), 1227–1259 Hancock St., Quincy, 89001349

Nelson, John R., House (Quincy MRA), 4 Brunswick St., Quincy, 89001321

New England Telephone Building (Quincy MRA), 10 Merrymount Rd., Quincy, 89001357

Newcomb Place (Quincy MRA), 109 Putnam St., Quincy, 89001368

Nightengale House (Quincy MRA), 24 Quincy St., Quincy, 89001370

Nightengale, Solomon, House (Quincy MRA), 429 Granite St., Quincy, 89001342

Nowland, J. Martin, House (Quincy MRA), 31 Edgemere Rd., Quincy, 89001329

Pinkham House (Quincy MRA), 79 Winthrop Ave., Quincy, 89001384

Pratt-Faxon House (Quincy MRA), 75 Faxon Ln., Quincy, 89001331

Quincy Electric Light and Power Company Station (Quincy MRA), 76 Field St., Quincy, 89001332

Quincy Police Station (Quincy MRA), 442 Southern Artery, Quincy, 89001373

Quincy Savings Bank (Quincy MRA), 1370 Hancock St., Quincy, 89001350

Quincy Water Company Pumping Station (Quincy MRA), 106 Penn St., Quincy, 89001361

Record, Jonathan Dexter, House (Quincy MRA), 39–41 Grandview Ave., Quincy, 89001337

Reed, Timothy, House (Quincy MRA), 284 Adams St., Quincy, 89001311

Richards, Alfred H., House (Quincy MRA), 354 Highland Ave., Quincy, 89001353

Salem Lutheran Church (Quincy MRA), 199 Granite St., Quincy, 89001341

Sidelinger, George A., House (Quincy MRA), 19 Avon Way, Quincy, 89001313

South Junior High School (Quincy MRA), 444 Granite St., Quincy, 89001343

Spear, Seth, Homestead (Quincy MRA), 47–49 Spear St., Quincy, 89001375

White, Charles E., House (Quincy MRA), 101 Billings Rd., Quincy, 89001320

Winfield House (Quincy MRA), 853 Hancock St., Quincy, 89001347

Wollaston Branch, Thomas Crane Public Library (Quincy MRA), 41 Beale St., Quincy, 89001316

Wollaston Fire Station (Quincy MRA), 111 Beale St., Quincy, 89001317

Wollaston Theatre (Quincy MRA), 14 Beale St., Quincy, 89001315

Wollaston Unitarian Church (Quincy MRA), 155 Beale St., Quincy, 89001318

MISSOURI

Pettis County

Hotel Rothwell, 103 E. Fourth St., Sedalia, 89001406

NEW YORK

Dutchess County

Windswept Farm, Sunset Trail, Clinton, 89001390

Kings County

Atlantic Avenue Tunnel, Below Atlantic Ave. between Boerum Pl. and Columbia St., New York City, 89001388

Montgomery County

Sweet, Samuel, Canal Store, 65 Bridge St., Amsterdam, 89001389

OREGON

Clatsop County

ISABELLA Shipwreck Site and Remains, Address Restricted, Astoria vicinity, 89001385

TENNESSEE

Coffee County

Carroll, J.G., and R.H. Mitchell Houses (Tullahoma MPS), 211 and 217 S. Atlantic, Tullahoma, 89001399

Dewey-Troxler Building (Tullahoma MPS), 225 N. Atlantic St., Tullahoma, 89001400

East Central Tullahoma Historic District (Tullahoma MPS), Roughly bounded by E. Lincoln, S. Polk, E. Lauderdale, and S. Washington Sts., Tullahoma, 89001397

Hickerson, L.D., House (Tullahoma MPS), 215 N. Washington St., Tullahoma, 89001395

North Washington Street Historic District (Tullahoma MPS), 603–611 N. Washington St., Tullahoma, 89001396

South Jackson Street Historic District (Tullahoma MPS), 216 and 300–308 S. Jackson St., Tullahoma, 89001398

Tennessee Glove Factory (Tullahoma MPS), 108 S. Atlantic St., Tullahoma, 89001394

US Post Office—Tullahoma (Tullahoma MPS), 201 N. Atlantic St., Tullahoma, 89001393

VIRGINIA

Louden County

Old Stone Church Archeological Site (44LD376), Address Restricted, Leesburg vicinity, 89001402

The 15-day commenting period has been waived for the following property in order to assist in its preservation:

GEORGIA

Camden County

Little Cumberland Island Lighthouse, N end of Little Cumberland Island, St. Marys vicinity 89001407

[FR Doc. 89–19756 Filed 8–21–89; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388; Sub-No. 7]

Intrastate Rail Rate Authority, Illinois

AGENCY: Interstate Commerce Commission.

ACTION: Notice of certification.

SUMMARY: The Commission grants final (5-year unconditional) certification to the Illinois Commerce Commission under 49 U.S.C. 11501(b) to regulate intrastate rail transportation.

DATES: Certification will begin September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENATRY 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: August 15, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–19709 Filed 8–21–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31503]

The Garden City Co-Op, Inc., Exemption From 49 U.S.C. 10746 and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts Garden City Co-op, Inc., from the requirements of 49 U.S.C. 11343–11345 for it to control Garden City Western Railway Company (GCW) and The Garden City Northern Railway, Inc. (GCN), subject to standard labor protective conditions. Its request to be exempted from 49 U.S.C. 10746, the commodities clause, is dismissed. The request is in connection with Finance Docket No. 31502, Garden City No. Ry., Inc.—Exempt. of Acq. and Oper. of Rail Line—Atchison, T. and S. F. Ry. Co. and Garden City, G. and No. R. Co., in which GCN plans to acquire and operate a 30.59-mile rail line between Garden City and Shallow Water, KS.

DATES: This exemption is effective on September 6, 1989. Petitions for stay must be filed by September 1, 1989, and petitions for reconsideration must be filed by September 18, 1989.

ADDRESSES: Send an original and 10 copies of pleadings referring to Finance Docket No. 31503 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioner's representative: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland, Emrich & Herman, 20 N. Wacker Drive, Chicago, IL 60606

FOR ADDITIONAL 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: August 14, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Kathleen M. King,

Acting Secretary.

[FR Doc. 89–19708 Filed 8–21–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31487]

Natchez Trace Railroad; Purchase and Lease; CSX Transportation Lines Between Wellington and Anniston, AL and Talladega and Gantt's Jct., AL

AGENCY: Interstate Commerce Commission.

ACTION: Correction to decision at 54 FR 30287 (July 19, 1989). The last sentence under "**DATES**" has been changed by adding a specific date for issuing a service list. The corrected paragraph follows.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than August 17, 1989. Comments from the Secretary of Transportation and Attorney General of the United States must be filed by September 1, 1989. Applicants' reply is due September 21, 1989. Comments must be served on all parties of record within 10 days of the Commission's issuance of a service list. The Commission expects

to issue the service list by September 1, 1989, or shortly thereafter.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. (TDD for hearing impaired: (202) 275–1721).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This decision is effective on August 22, 1989.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 89–19536 Filed 8–21–89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Claims Against Egypt; Adjudication Program Transfer From State Department; Correction

AGENCY: Foreign Claims Settlement Commission of the United States, Justice.

ACTION: Notice; correction.

SUMMARY: The following is a correction of the notice published on August 10, 1989, at 54 FR 32856, concerning the transfer from the Department of State to the Foreign Claims Settlement Commission of the Department's program for adjudication of claims of United States nationals against the Government of the Arab Republic of Egypt. Among other things, this notice announced the setting of a final deadline for the filing of claims of United States nationals for losses resulting from the blocking of bank accounts by the Government of the Arab Republic of Egypt. However, due to an editing error, this final deadline was incorrectly stated at one place in the notice.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission of the United States, 1111 20th Street NW., Room 400, Washington, DC 20579, (202) 653–5883 or FAX (202) 653–6009.

In the first sentence of the Notice of Time for Filing and Completion of Program paragraph appearing in the Federal Register at page 32856, column 3, on August 10, 1989 (54 FR 32856), the date is corrected to read as follows:

Notice of Time for Filing and Completion of Program

I. Pursuant to section 4(b) of Title I of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1623(b)), the Foreign Claims Settlement Commission hereby gives notice that the period for the filing of any new, previously unadjudicated claims for losses resulting from the blocking by the Government of the Arab Republic of Egypt of bank accounts in Egypt owned by United States nationals will * * * end on November 30, 1989. * * *.

* * * * *

Dated at Washington, DC, August 16, 1989.

Judith H. Lock,

Administrative Officer.

[FR Doc. 89–19648 Filed 8–21–89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee for the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: September 12, 1989, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contract: Fernand Lavallee, Director, Labor Advisory Committee Group, Phone: (202) 523–6061.

Signed at Washington, DC, this 16th day of August.

Berton J. Braley, Jr.,

Acting Deputy Under Secretary International Affairs.

[FR Doc. 89–19715 Filed 8–21–89; 8:45 am]

BILLING CODE 4510-28-M

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–1301, Washington, D.C. 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration

Quarterly Determinations, Allowance Activities and Employability Services under the Trade Act & Training Waivers Issued and Revoked

1205–0016; ETA 563, ETA 9027

Form #	Affected Public	Respondents	Frequency	Average time per response
ETA 563	State or local governments.	52	Quarterly	12 minutes
ETA 9027	State or local governments.	52	Quarterly	15 minutes

1,331 total hours.

Quarterly data on Trade Adjustment Assistance activity is needed for timely program evaluation necessary for competent administration and for providing legally mandated reports to the Congress on the Trade Adjustment Assistance Program. Quarterly number of waivers of training issued and revoked by reason are needed for proper administration and to provide statutorily required report to the Congress.

Extension

Employment Standards Administration Rehabilitation Maintenance Certificate

1215–0161; OWCP–17

On occasion

Individuals or households; small businesses or organizations 950 respondents; 1904 total hours; 10 minutes per response; 1 form. The form OWCP–17 serves as a bill submitted by the disabled worker to OWCP requesting reimbursement of expenses incurred due to participation in an approved rehabilitation effort for the preceding four week period.

Extension

Employment Standards Administration OWCP Representative Fee Request

1215–0078; CA–38; 20 CFR 702.132

As needed

Businesses or other for profit; small businesses or organizations 11,000 responses; 10,000 total hours; .5 to 1.5 hrs. per response Requests for approval of a fee for services provided OWCP claimant/beneficiaries submitted by attorney/representative.

Signed at Washington, DC, this 17th day of August, 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89–19716 Filed 8–21–89; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 1, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 1, 1989.

The petitions filed in this case area available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 14th day of August 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Barlyn Mfg. Corp. (ILGWU)	Newark, NJ	8/14/89	8/7/89	23,248	Intimate Apparel.
Beta Mfg. Co. (UAW)	Warren, MI	8/14/89	8/3/89	23,249	Electrical Assemblies.
Cosmo Fashions (ILGWU)	Newark, NJ	8/14/89	8/7/89	23,250	Sewing.
Diamond Well Service (Company)	Casper, WY	8/14/89	7/27/89	23,251	Oil and Gas.
Dotti Original, Inc. (ILGWU)	Elizbeth, NJ	8/14/89	8/7/89	23,252	Blouses.
ELRA Dress Co. (ILGWU)	Jersey City, NJ	8/14/89	8/7/89	23,253	Dresses.
Earnest Power Tong Service-Earnest Power Tong & Pipe (Workers).	Odessa, TX	8/14/89	7/26/89	23,254	Oil and Gas.
Enfield Apparel Co. (Workers)	Enfield, IL	8/14/89	8/3/89	23,255	Men and Childrens' Clothing.
First Financial Mgt. Corp.-Thrift Div. (Company)	Englewood, CO	8/14/89	7/25/89	23,256	Computers.
Guy Friel & Son Inc. (Workers)	Smyrna Mills, ME	8/14/89	8/2/89	23,257	Wood.
H.T. Geophysical Corp. (Workers)	Denver, CO	8/14/89	8/3/89	23,258	Seismic Data.
Horizon Well Serv. (Workers)	Woodward, OK	8/14/89	8/3/89	23,259	Oil and Gas.
JC Penney Co. (Workers)	New York, NY	8/14/89	7/3/89	23,260	Merchandise Apparel.
Ka'u Agribusiness Co., Inc. (ILWU)	Pahala, HI	8/14/89	7/28/89	23,261	Sugar Cane.
Koelling Metals (IAM)	St. Louis, MO	8/14/89	8/1/89	23,262	Metallic Ring.
Meilink Steel Safe Co. (Workers)	Toledo, OH	8/14/89	7/27/89	23,263	Vault Doors and Fire Safes.
Michel T. Halbouty Energy Co. (Workers)	Houston, TX	8/14/89	7/26/89	23,264	Oil and Gas.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Mobil Exploration & Producing US, Inc.; Midland Div. (Workers).	Midland, TX	8/14/89	7/31/89	23,265	Do.
Nichols Casing Crews (Company)	Oklahoma City, OK	8/14/89	8/2/89	23,266	Do.
North Central Oil Corp. (Workers)	Houston, TX	8/14/89	8/3/89	23,267	Do.
Oil Well Perforators, Inc. (Company)	Englewood, CO	8/14/89	8/3/89	23,268	Do.
P.S.&L. Corp. (ILGWU)	Orange, NJ	8/14/89	8/2/89	23,269	Sportswear.
Parker Seal Co. (IBFO)	Bekea, KY	8/14/89	8/4/89	23,270	'O' Rings.
Pullman Power Products (UAJA)	Williamsport, PA	8/14/89	7/29/89	23,271	Pipe Fabrication.
Pharaclt Design Corp. (ILGWU)	East Newark, NJ	8/14/89	7/21/89	23,272	Sportswear.
Rod Ric Corp. (Workers)	Odessa, TX	8/14/89	7/28/89	23,273	Oil and Gas.
Rwimco Drilling Inc. (Workers)	Cisco, TX	8/14/89	8/7/89	23,274	Do.
SSMC (Workers)	Fairfield, NJ	8/14/89	7/19/89	23,275	Design Sewing Machines.
Service America Corp. (Workers)	Springdale, AK	8/14/89	8/3/89	23,276	Food.
Snyder Tank Corp. (Workers)	Galeton, PA	8/14/89	7/31/89	23,277	Fuel Tanks
Somerset Knitting Mills (ILGWU)	Philadelphia, PA	8/14/89	8/7/89	23,278	Sweaters.
Sovonics Solar Systems (Workers)	Troy, MI	8/14/89	7/12/89	23,279	Electronic Devices.
Texaco, USA/Casper District (Workers)	Casper, WY	8/14/89	8/2/89	23,280	Oil and Gas.
Texaco, USA/Midland Div. (Company)	Midland, TX	8/14/89	8/1/89	23,281	Do.
V'Lora Swimwear, Inc. (ILGWU)	Bloomfield, NJ	8/14/89	8/7/89	23,282	Swimwear.

[FR Doc. 89-19711 Filed 8-21-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-21,805]

CRC Mallard d.b.a. Mallard Workover & Drilling, Inc., Lafayette, LA; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 9, 1989 applicable to all workers of CRC Mallard Workover & Drilling, Inc., Lafayette, Louisiana.

The certification is being amended to properly reflect the correct worker group. New information from the bankruptcy trustee indicates that the correct name of the subject worker group was CRC Mallard, Lafayette, Louisiana. All the assets were sold in May 1987 including the name Mallard to another firm in the same business which became called Mallard Workover & Drilling, Inc., Lafayette, Louisiana. Mallard Workover & Drilling is the successor firm of CRC Mallard.

The notice is amended to include the correct name of the worker group, CRC Mallard, Lafayette, Louisiana and its successor firm Mallard Workover & Drilling, Inc., Lafayette, Louisiana.

The amended notice applicable to TA-W-21,805 is hereby issued as follows:

All workers of CRC Mallard, Lafayette, Louisiana and its successor firm Mallard Workover & Drilling, Inc., Lafayette, Louisiana who became totally or partially separated from employment on or after October 1, 1985 and before January 1, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 11th day of August 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-19712 Filed 8-21-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W22, 459 and TA-W-22, 459A]

Phillips Petroleum Co., Western Division, Oklahoma City, OK; All Exploration and Production Units in Oklahoma; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 10, 1989 applicable to all workers of Phillips Petroleum Company, Western Division, Oklahma City, Oklahoma.

Based on new information from the company, additional workers were separated from Exploration and Production Units of the Western Division of Phillips Petroleum Company in the State of Oklahoma. The notice for the Oklahoma District of the Western Division of Phillips Petroleum Company is amended to include all exploration and production units of Phillips Petroleum Company in the State of Oklahoma.

The amended notice applicable to TA-W-22, 459 is hereby issued as follows:

All workers of Phillips Petroleum Company, Western Division, Oklahoma City, Oklahoma and all Exploration and Production Units of Phillips Petroleum Company located throughout the State of Oklahoma who became totally or partially separated from employment on or after January 23, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 11th day of August 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Service, UIS.

[FR Doc. 89-19713 Filed 8-21-89 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of July 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases or imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the

separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–23,022; Witco Corp., Richardson Battery Parts Div, Clark, NJ

In the following cases, the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–23,086; PMC Equipment Co., Inc., Chart Drive Recorder Dept., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–23,121; Rockwell International Measurement & Flow Control Div., Pittsburgh, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,984; Amoco Production Co., General Office, Chicago, IL

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,985; Amoco Production Co., Research Center, Tulsa, OK

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,987; Amoco Production Co., New Orleans, LA Region and Operating at Various Locations in the Following States

TA–W–22,987A; Louisiana
TA–W–22,987B; Mississippi
TA–W–22,987C; Pennsylvania
TA–W–22,987D; Alabama

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,986; Amoco Production Co., Houston, TX Region and Operating at Various Locations in the Following States

TA–W–22,987A; New Mexico
TA–W–22,987B; Texas
TA–W–22,987C; Michigan

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,983; Amoco Production Co., Denver, CO Region and Operating at Various Locations in the Following States

TA–W–22,983A; New Mexico
TA–W–22,983B; Alaska
TA–W–22,983C; Wyoming
TA–W–22,983D; Colorado
TA–W–22,983E; Oklahoma
TA–W–22,983F; Utah
TA–W–22,983G; North Dakota
TA–W–22,983H; South Dakota
TA–W–22,983I; Nebraska
TA–W–22,983J; Kansas

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determination

TA–W–23,007; Hunt Energy Corp., Dallas, TX

A certification was issued covering all workers separated on or after May 3, 1988.

TA–W–23,002; Gruss Petroleum Management, Inc., Midland, TX

A certification was issued covering all workers separated on or after May 18, 1988.

TA–W–23,003; Gruss Petroleum Management, Inc., New York, NY

A certification was issued covering all workers separated on or after May 18, 1988.

TA–W–23,045; Scab Rock Feeders, Inc., Othello, WA

A certification was issued covering all workers separated on or after December 1, 1988.

TA–W–23,009; Jerry Scott Drilling Co., Inc., Seminole, OK

A certification was issued covering all workers separated on or after May 16, 1988.

TA–W–23,014; Maxim Drilling & Exploration, Inc., Gillette, WY

A certification was issued covering all workers separated on or after April 18, 1988.

TA–W–23,008; J.G. Carmel, Inc., Midland, TX

A certification was issued covering all workers separated on or after May 18, 1988.

TA–W–23,010; Jorgruss Oil Corp., Midland, TX

A certification was issued covering all workers separated on or after May 18, 1988.

TA–W–23,015; Pegasus Holding Corp., Midland, TX

A certification was issued covering all workers separated on or after May 18, 1988.

TA–W–23,062; Oryx Energy Co., Formerly Sun Exploration and Production Co., Headquartered in Dallas, TX and Operating at Various Locations in the Following States

TA–W–23,062A; California
TA–W–23,062B; Oklahoma
TA–W–23,062C; District of Columbia
TA–W–23,062D; Florida
TA–W–23,062E; Kansas
TA–W–23,062F; Louisiana
TA–W–23,062G; Michigan
TA–W–23,062H; Mississippi
TA–W–23,062I; New Mexico
TA–W–23,062J; Oklahoma
TA–W–23,062K; Texas
TA–W–23,062L; Wyoming

A certification was issued covering all workers separated on or after June 26, 1988.

I hereby certify that the aforementioned determinations were issued during the month of July 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: August 15, 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89–19714 Filed 8–21–89 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89–57]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee Informal Executive Subcommittee.

DATES: September 12, 1989, 1 p.m. to 5:30 p.m., and September 13, 1989, 8:30 a.m. to 12:30 p.m.

ADDRESSES: State Plaza Hotel, Envoy Room, 2117 E Street NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1430).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Informal Executive Subcommittee will meet to formulate plans for the next meeting of the full Committee.

The Subcommittee is chaired by Dr. Berrien Moore and is composed of 8 members. The meeting will be open to the public up to the seating capacity of the room (approximately 15 people including members of the Subcommittee).

Type of Meeting: Open.

Agenda

Tuesday, September 12

1 p.m.—Office of Space Science and Applications Issues and Space Science and Applications Advisory Committee (SSAAC) tasks.

2 p.m.—Discussion of follow-up actions from the June SSAAC meeting.

3:30 p.m.—Discussion of SSAAC work priorities in Fiscal Year 1990.

5:50 p.m.—Adjourn.

Wednesday, September 13

8:30 a.m.—Discussion of November SSAAC meeting topics.

10:30 a.m.—Preparation of agenda for November meeting.

12:30 p.m.—Adjourn.

Dated: August 14, 1989.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89–19693 Filed 8–21–89; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Notice of Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published July 26, 1989 (54 FR 31125). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meetings. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agendas for the September 1989 ACRS full Committee and the September 1989 ACNW meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 301/492–7288, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Regional Programs, August 29–30, 1989, King of Prussia, PA (Region I Office). The Subcommittee will review the activities under the purview of the NRC Regional I Office.

Joint Extreme External Phenomena and Severe Accidents, September 6, 1989, Bethesda, MD. The Subcommittees will be briefed by the NRC and industry on the Individual Plant Examination for External Events (IPEEE) program.

Joint Containment Systems and Structural Engineering, September 12, 1989, San Francisco, CA. The Subcommittees will discuss containment design criteria for future plants with invited speakers from industry and National Laboratories.

Thermal Hydraulic Phenomena, September 13 and a.m. on 14, 1989, *San Jose, CA.* The Subcommittee will discuss the capability of the thermal hydraulic codes to model BWR core power instability.

Joint Severe Accidents and Probabilistic Risk Assessment, September 19, 1989, Bethesda, MD. The Subcommittees will discuss the second draft of NUREG–1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants."

Severe Accidents, September 20, 1989, Bethesda, MD. The Subcommittee will discuss the proposed Generic Letter by NRR, the NRC Research Program, and the NUMARC/EPRI activities in the accident management area.

Advanced Pressurized Water Reactors, September 21, 1989, Bethesda, MD. The Subcommittee will discuss the comparison of the WAPWR (RESAR SP/90) design with other modern plants (in U.S. and abroad).

Human Factors, September 27, 1989, Bethesda, MD. The Subcommittee will review the proposed Access Authorization Rule and performance indicators.

Mechanical Components, October 3, 1989, Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 87, "Failure of HPCI Steamline Without Isolation,"—specifically the matter of implementing current design requirements on MOV's, status of Task Action Plan on check valves, and discuss Generic Letter 89–04, "Guidance on Developing Acceptable Inservice Testing Program."

Joint Containment Systems and Structural Engineering, October 17, 1989, Chicago, IL. The Subcommittees will discuss containment design criteria for future plants with invited speakers from industry and National Laboratories.

Thermal Hydraulic Phenomena, October 27, 1989, San Jose, CA. The Subcommittee will review the key thermal hydraulic design aspects of the GE ABWR.

Advanced Boiling Water Reactors (GE ABWR), October 31, 1989, Bethesda, MD. The Subcommittee will review the NRC staff's SER on Module One of GE ABWR.

Regulatory Policies and Practices, November 15, 1989, Bethesda, MD. The Subcommittee will discuss integration of the regulatory process.

Thermal Hydraulic Phenomena, November 22, 1989, Bethesda, MD. The Subcommittee will discuss selected topics related to the NRC–RES thermal hydraulic research program.

Decay Heat Removal Systems, Date to be determined (September/October), Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 84, "CE PORVs."

Joint Thermal Hydraulic Phenomena and Core Performance, Date to be determined (September/October), Bethesda, MD. The Subcommittees will continue their review of boiling water reactor core power stability pursuant to

the core power oscillation event at LaSalle County Station, Unit 2.

General Electric Reactors, Date to be determined (September/October), Bethesda, MD. The Subcommittee will review the restart of Nine Mile Point Unit 1.

Advanced Pressurized Water Reactors, Date to be determined (September/October), Bethesda, MD. The Subcommittee will discuss the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR-DC).

Severe Accidents, Date to be determined (September/October), Bethesda, MD. The Subcommittee will discuss the NRC Severe Accident Research Program (SARP) plan.

Decay Heat Removal Systems, Date to be determined (November), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 23, "RCP Seal Failures."

Systematic Assessment of Experience, Date to be determined (November/December), Bethesda, MD. The Subcommittee will review the proposed power level increase for Indian Point Unit 2.

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Thermal Hydraulic Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of Industry best-estimate ECCS model submittals for use with the revised ECCS Rule.

Auxiliary and Secondary Systems, Date to be determined, Bethesda, MD. The Subcommittee will discuss the: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Reliability Assurance, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of implementation of the resolution of USI A–46, "Seismic Qualification of Equipment in Operating Plants," and other related matters.

Joint Regulatory Activities and Containment Systems, Date to be determined, Bethesda, MD. The Subcommittees will review the proposed final revision to Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

Safeguards and Security, Date to be determined, Bethesda, MD. The Subcommittee will review NUREG–1267, "Technical Resolution of Generic Safety Issue A–29, Nuclear Power Plant Design for Reduction of Vulnerability to Industrial Sabotage."

ACRS Full Committee Meetings

353rd ACRS Meeting, September 7–9, 1989—Items are tentatively scheduled.

*A. *Generic Issue A–29, "Nuclear Power Plant Design for Reduction of Vulnerability to Industrial Sabotage" (Open)*—Review and report on proposed resolution of this generic issue.

*B. *EPRI Requirements for Advanced LWRs (Open)*—Briefing and discussion regarding the status of the proposed EPRI Requirements for Advanced Light Water Reactors.

*C. *Individual Plant Examination for External Events (IPEEE) (Open)*—Briefing and discussion regarding the status of guidance regarding IPE consideration of external events.

*D. *ACRS Subcommittee Activities (Open)*—Reports and discussion of the status of assigned subcommittee activities, including the August 29–30, 1989 meeting of the ACRS Subcommittee on Regional Programs.

*E. *Generic Issue 99, "Improved Reliability of RHR Capability In PWRs" (Open)*—Briefing by NRC staff regarding implementation of this matter.

*F. *Seabrook Nuclear Plant (Open)*—Review and comment on the off-site emergency preparedness for this facility.

*G. *Accident Severity Scales (Open)*—Briefing and discussion regarding development of accident severity scales for use in the NRC regulatory process.

*H. *Maintenance of Nuclear Plants (Open)*—Review and comment on proposed NRC policy statement and an associated regulatory guide regarding maintenance programs for nuclear power plants.

*I. *Advanced PWRs (Open)*—Report and discussion of the status of NRC staff review of the Westinghouse (REAR SP–90 and AP–600), and Combustion Engineering (CE System–80+) standard plant designs.

*J. *NUREG–1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants" (Open)*—Meeting and discussion with NRC staff representatives regarding ACRS report dated May 9, 1989 on interim use of NUREG–1150.

*K. *Appointment of ACRS Members (Open/Closed)*—Discuss the qualifications of candidates proposed for nomination to the ACRS.

*L. *Anticipated Activities (Open)*—Discuss anticipated ACRS subcommittee activities and topics proposed for consideration by the full Committee.

354th ACRS Meeting, October 5–7, 1989—Agenda to be announced.

355th ACRS Meeting, November 16–18, 1989—Agenda to be announced.

356th ACRS Meeting, December 14–16, 1989—Agenda to be announced.

ACNW Full Committee Meetings

13th ACNW Meeting, September 13–15, 1989—The Committee will discuss the following topics:

A. A discussion of the approach to performance assessment for the high-level waste repository and status of activities.

B. A review of the Pathfinder Reactor Dismantlement Plan.

C. The review of a number of staff technical positions.

D. A discussion of the concrete bunker prototype license application.

E. A discussion on the availability of data from the USGS.

F. A discussion of activities at the Center for Nuclear Waste Regulatory Analyses.

G. A discussion of waste related activities of Nuclear Safety Research Review Committee.

H. A discussion of DOE's program to store and dispose of Greater-Than-Class C wastes.

I. An administrative session to discuss anticipated proposed Committee activities, future meeting agendas, and organizational matters, as appropriate.

14th ACNW Meeting, October 11–13, 1989—Agenda to be announced. No November Meeting

15th ACNW Meeting, December 27–29, 1989—Agenda to be announced.

Dated: August 17, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89–19758 Filed 8–21–89; 8:45 am]

BILLING CODE 7590–01–M

Issuance and Availability of NUREG–1174, "Evaluation of Systems Interactions in Nuclear Power Plants: Technical Findings Related to Unresolved Safety Issue A17," and NUREG–1229, "Regulatory Analysis for Resolution of USI A–17—Systems Interactions in Nuclear Power Plants"

The U.S. Nuclear Regulatory Commission (NRC) staff is issuing the resolution of Unresolved Safety Issue (USI) A–17, "Systems Interactions in Nuclear Power Plants." The resolution is documented in two NUREG reports entitled "Evaluation of Systems Interations in Nuclear Power Plants: Technical Findings Related to Unresolved Safety Issue A–17"

(NUREG–1174) and "Regulatory Analysis for Resolution of USI A–17—Systems Interactions in Nuclear Power Plants" (NUREG–1229). Systems interactions was identified as an Unresolved Safety Issue (USI) in NUREG–0510, "Identification of Unresolved Safety Issues Relating to Nuclear Power Plants," January 1979, and was reported to the Congress pursuant to section 210 of the Energy Reorganization Act of 1974 as amended on December 13, 1977.

Nuclear power plants contain many structures, systems, and components (SSCs), some of which are safety-related. Certain SSCs are designed to interact to perform their intended functions. These "systems interactions" are usually well recognized and therefore accounted for in the evaluation of plant safety by the designers and by those who assess plant safety.

A number of significant events have involved unintended or unrecognized dependencies among the SSCs. Some of these events have involved subtle dependencies between safety-related SCCs and other SCCs. Some events have also involved subtle dependencies between redundant safety-related SSCs that were believed to be independent.

Therefore, the purpose of USI A–17 was to investigate the potential that unrecognized, subtle dependencies among SSCs have remained hidden and that they could lead to safety-significant events. The term used to describe these unrecognized, subtle dependencies is adverse systems interactions (ASIs).

The staff is not recommending that further broad searches specifically for all ASIs be undertaken because such searches have not proved to be cost effective in the past, and there is no guarantee after such a study that all ASIs have been uncovered. Rather, the staff has concluded that certain more specific actions, together with other ongoing activitivies, should reduce the risk from adverse systems interactions.

The staff has concluded from its A–17 investigations that the following actions should be taken:

(1) Issuance of a generic letter that includes:

(a) The bases for resolution of USI A–17,

(b) A summary of information relevant to ongoing operating experience reviews.

(2) Recognition that Individual Plant Examinations (IPEs) already include evaluation of internal flooding and the A–17 insights will be referenced in the IPE guidance documents.

(3) Recognition that the USI A–46 resolution will address seismically induced systems interactions to verify that components and systems needed to safely shut down the plant are protected, given loss of offsite power. (New plants, not covered by A–46, have been reviewed to current requirements that address seismically induced systems interactions.)

(4) Communication of information regarding ASIs for staff review of PRAs and for staff evaluation of electric power supplies as part of GI–128, "Electric Power Reliability."

(5) Identification and definition of concerns related to A–17 and other programs that have not been specifically addressed. (The objective of this program is to define the concerns with sufficient specificity to permit them to be prioritized as potential generic safety issues.)

(6) Development of a Standard Review Plan for future plants that would include guidance regarding protection from internal flooding and water intrusion events.

Copies of the documents included in the final resolution for USI A–17 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

Dated at Rockville, Maryland this 14th day of August, 1989.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 89–19730 Filed 8–21–89; 8:45 am]

BILLING CODE 7509–01–M

[Docket No. 50–237 and 50–249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit Nos. 2 and 3); Exemption

I

Commonwealth Edison Company (CECo, the licensee) is the holder of Provisional Operating License No. DPR–19 and Facility Operating License No. DPR–25 which authorizes the operation of Dresden Nuclear Power Station, Unit Nos. 2 and 3 (the facilities) at a steady state power level not in excess of 2,527 megawatts thermal. This license provides, among other things, that the facilities are subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission or the staff) now or hereafter in effect. The facilities are boiling water reactors (BWR's) located at the licensee's site in Grundy County, Illinois.

II

Section 50.54 of Title 10 of the Code of Federal Regulations (10 CFR 50.38, "Fire Protection") and Appendix R to 10 CFR part 50, "Fire Protection Program for Nuclear Facilities Operating Prior to January 1, 1979," set forth certain fire protection features required to satisfy the General Design Criterion related to fire protection (Criterion 3, Appendix A to 10 CFR part 50).

Section III.G of Appendix R requires fire protection for equipment important to post-fire shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire detectors, and separation of safety trains (III.G.2) or alternate post-fire shutdown equipment free of the fire area (III.G.3). The objectives of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1).

III

By letter dated August 10, 1984 as supplemented by letters dated September 18, 1985, March 12 and March 20, 1986, CECo requested exemptions from section III.G of Appendix R to 10 CFR part 50. By letter dated October 16, 1985, CECo submitted additional fire protection exemption requests and by letter dated May 30, 1986, CECo further revised exemption request submittals based on a meeting held with the NRC staff on April 8, 1986. This information was further supplemented by CECo in a letter dated April 14, 1987. A description of the exemptions requested and a summary of the Commission's evaluation follows.

Exemption Requested

The licensee requested exemptions from the requirements of section III.G.1 of 10 CFR part 50 Appendix R which, in part, requires that one train of systems necessary to achieve and maintain hot shutdown be free of fire damage. In their submittals, the licensee identified several shutdown circuits and associated equipment that could be compromised due to failure or fuses associated with these circuits, or due to fire induced spurious operation of certain shutdown equipment. The licensee requested exemptions in regard to the following equipment and failure modes:

(1) Condensate transfer pumps 2A and 3A; control circuits for 4KV and 480V safe shutdown circuit breakers; inboard isolation condenser (IC) valves; and Swing DG 2/3 control circuits affected by postulated fuse failures due to inadequate electrical isolation from circuits compromised by the fire.

(2) 4KV and 480V safe shutdown buses affected by failures of non-safety load circuits to a fire.

(3) Reactor relief valves affected by fire induced failures of associated circuits causing their spurious operation.

The licensee proposed hot shutdown repairs to justify their request for exemption from section III.G.1. Fire induced postulated failures of fuses protecting safe shutdown circuits, prior to the isolation of these circuits for local control, was justified by evidence of redundant manual controls including pulling out of appropriate fuses, and by controls for fuse replacement. The staff determined that the licensee controls for the location, accessibility, surveillance, and operator safety in regard to replacement of fuses and other proposed manual controls are acceptable.

Repairs for fuse failures caused by high impedance faults associated with common power sources and fire induced spurious operation of equipment were justified by evidence of established plant shutdown procedures and controls requiring tripping of circuit breakers, operating disconnect switches, and removing fuses. These procedures also require shedding of non-safety loads from appropriate 4KV and 480V safety buses, and the removal of 125V DC control power fuses from appropriate non-safety load circuit breakers. The staff determined these procedures and controls to be acceptable.

The staff has also determined that there is reasonable assurance that the licensee's proposed manual actions including the hot shutdown repairs (fuse replacement) meet the intent and purpose of IE Information Notice No. 85–09, "Isolation Transfer Switches and Post-Fire Shutdown Capability," dated January 31, 1985, and are therefore acceptable.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case, the hot shutdown repairs involving fuse removal and replacement preclude the possibility of postulated fire induced fuse failures and high impedance faults from impairing the operability of required safe shutdown systems from performing their safety function. Thus, the underlying purpose of the rule would be satisfied without requiring redundant fusing and electrical isolation.

Exemption Requested

The licensee requested an exemption from the requirements of section III.G.2 of Appendix R because intervening combustibles or fire hazards are present between the redundant trains of safe shutdown equipment in the upper and lower crib houses (Fire Zone 11.3 Crib House).

The staff's principal concern was that the intervening combustibles and fire hazards may create a path for the spread of fire between redundant safe shutdown systems and result in a loss of safe shutdown capability. However, because of the light fuel load in these zones, a fire of significant magnitude or duration to cause a loss of safe shutdown capability is not expected to occur.

If a fire should occur, it should not spread from the place of origin or endanger redundant pumps in the upper or lower crib house because the installed curbs should contain lubricating oil spills, sprinkler systems installed above cable trays and in other areas should extinguish or control fires to prevent their spread via intervening combustibles, and the detection systems or water flow alarms should alert the plant fire brigade to respond to the fire. Upon arrival, the fire brigade should extinguish the fire if the sprinkler systems have not. On this basis, the staff concludes that the licensee's alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.2.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case, the light fuel load in these zones in combination with the existing fire protection features and completed modifications minimize the possibility of a fire in one train spreading and causing damage to the redundant train. Thus the underlying purpose of the rule would be satisfied without requiring the 20 foot minimum separation distance free of intervening combustible material.

Exemption Requested

The licensee requested an exemption from the requirements of Secton III.G.2 of Appendix R in the following fire zones: Fire Zone 1.1.2.2, Unit 2 Reactor Building, Elevation 517 feet, 6 inches; Fire Zone 1.1.2.3, Unit 2 Reactor Building, Elevation 545 feet, 6 inches; Fire Zone 1.1.1.2, Unit 3 Reactor Building, Elevation 517 feet, 6 inches; Fire Zone 1.1.1.3, Unit 3 Reactor Building, Elevation 517 feet, 6 inches. These exemptions were submitted because: although safe shutdown equipment in these zones is separated by a horizontal distance of more than 20 feet, intervening combustibles or fire hazards are present between the redundant trains of equipment (reactor coolant water level and pressure instrumentation) and automatic fire suppression systems are not provided throughout the zones.

The staff's principal concern was that the intervening combustibles and fire hazards may create a path for the spread of fire between redundant safe shutdown systems and that the lack of fire suppression systems may permit the fire to continue and result in a loss of safe shutdown capability. However, because of the light to moderate fuel load, it is not expected that a fire of significant duration or magnitude would occur. Intervening combustibles in Fire Zones 1.1.2.2, 1.1.2.3, 1.1.1.2, and 1.1.1.3 provide a path for the spread of fire between redundant safe shutdown systems in the form of cables in trays. However, cable quantities along these paths are small, path distances are at least 75 feet, and the licensee has installed fire detection systems in all four of these zones and fire stops in cable trays in Fire Zones 1.1.2.2, 1.1.1.2, 1.1.2.3 and 1.1.1.3 which cross from one side of the Reactor Building to the other. Should a fire start, it should not spread to endanger redundant systems because the detection systems will alert the plant fire brigade to respond to the fire prior to extensive spread. On this basis, the staff concludes that the licensee's proposed fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.2.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not nececssary to achieve the underlying purpose of the rule. In this case, the light to moderate fuel load in combination with the fire detection systems installed by the licensee in all four of these zones and fire stops in cable trays in all four zones which cross from one side of the reactor building to the other minimize the possibility of a fire in one train spreading and causing damage to the redundant train. Thus the underlying purpose of the rule would be satisfied without requiring the 20 foot minimum separation distance free of intervening combustible material.

Exemption Requested

The licensee requested an exemption from the requirements of section III.G.3 of Appendix R in 23 fire zones located in Reactor Building Fire Areas RB2–1 and RB2–11 for Unit 2 and Reactor Building Fire Areas RB3–II for Unit 3 because fire detection systems and/or fixed fire suppression systems have not been installed in zones or areas for which alternative shutdown capability is provided.

The staff's principal concern was that a fire in one of these fire zones could cause a loss of normal safe shutdown capability. However, the fire loading in all of these fire zones ranges from negligible to low an in no case does the equivalent fire severity exceed 21 minutes. Because of the low combustible loading, a fire of significant magnitude or duration is not expected to occur. Except for seven fire zones, area-wide fire detection is provided. For the seven fire zones not having area-wide fire detection, there is either linear cable fire detection or spot fire detection, or the fire zones are open to an adjacent fire zone having fire detection installed throughout. Adequate means (extinguishers and/or hose lines) for manual fire fighting is available in all of the fire zones as required. Therefore, there is reasonable assurance that a fire in any of the 23 subject fire zones would be detected in its early stages and extinguished by the fire brigade before adjacent safety-related locations are threatened.

Should a fire damage any safe shutdown components in any of these locations before the fire brigade extinguishes it, an independent alternative shutdown capability is available to be used to achieve and maintain safe shutdown. The alternative safe shutdown path is separated from all fire zones where it is intended to be used by 3-hour fire rated barriers and any unsealed openings in a rated barrier are protected by an automatic suppression system in accordance with Generic Letter 86–10 for unsealed penetrations. On this basis, the staff concludes that the licensee's proposed alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.3.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case, the low fire loadings and the area-wide or linear cable or spot fire detection in combination with adequate means for manual fire fighting in all 23 fire zones and independent alternative shutdown capability eliminate the possibility of not achieving or maintaining safe shutdown. Thus the underlying purpose of the rule would be satisfied without requiring fire detection systems and/or fixed fire suppression systems in each of the zones.

Exemption Requested

The licensee requested an exemption from the requirements of section III.G.3 of Appendix R in 22 fire zones located in Central, Eastern, and Western Zone Groups of the Turbine Building because fixed-fire suppression systems and/or fire detection systems have not been installed in zones for which an alternative safe shutdown capability is provided.

The staff's principal concern was that a fire in one of these fire zones could cause a loss of normal safe shutdown capability. Although some of these fire zones have a high fire load, the fire loading is due to diesel fuel or lubricating oils in steel tanks. These steel tanks have been reviewed to the provisions of the "Flammable and Combustible Liquids Code" (NFPA–30) published by the National Fire Protection Association. While the tanks do not conform in all details to this code, they do satisfy the major provisions of the code and are considered to provide an equivalent level of protection. In addition, these fire loads are protected by automatic fire suppression systems. With these exceptions, however, the fire loads range from negligible to moderate and, in no case, do they exceed a 1-hour equivalent fire severity. Because of these low to moderate fire loadings, and given that the diesel fuel and lubricating oil fire hazards are contained and protected by fire suppression systems, a fire of significant magnitude or duration is not expected to occur. All fire zones are protected by fire detection or fire suppression systems or both. Therefore, there is reasonable assurance that a fire in any of the subject fire zones will be detected in its early stages and extinguished by the automatic fire suppression systems or by the fire brigade before adjacent safety-related locations are threatened.

If a fire should damage any normal shutdown components in any one of these zones before it is extinguished, the alternative shutdown capability, which is independent of these zones per section III.L of Appendix R, is available to be used to achieve and maintain safe shutdown. On this basis, the staff concludes that the licensee's proposed alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.3.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case, most of the fire zones have negligible to moderate fire loadings and the high fire loading zones, which have the diesel fuel and lubricating oil, are contained in tanks which satisfy the major provisions of the fire protection codes. Since all fire zones are protected by the fire detection or suppression equipment or both and independent alternative shutdown capability is available, the possibility of not achieving or maintaining safe shutdown is eliminated. Thus the underlying purpose of the rule would be satisfied without requiring fire detection systems and/or fixed fire suppression systems in each of the zones.

Exemption Requested

The licensee requested an exemption from the requirements of section III.G.3 of Appendix R in Fire Zones 1.1.2.6 and 1.1.1.6 of the Unit 2 and 3 Reactor Building, respectively, because fire detection and/or fixed-fire suppression systems have not been installed since they form a part of the plant area for which an alternative shutdown system has been provided.

The staff's principal concern for a fire in one of these two fire zones is that a fire could develop and spread to adjacent fire zones (for which alternative shutdown capability has been provided) and damage normal safe shutdown system components contained therein. These two fire zones have fire loads that are negligible and, in no case, does the equivalent fire severity exceed 2 minutes. Because of the negligible fire loads, a fire of significant magnitude or duration is not expected to occur. Should a fire occur, it should develop slowly, remain small, and dissipate its heat to the surrounding environment without spreading to adjacent fire zones. The fire detection systems in the adjacent fire zones would detect the fire and the fire brigade would be summoned to extinguish the fire manually.

Since there are no safe shutdown components in these two fire zones, there is no concern for any immediate fire damage potential. On this basis, the staff concludes that the licensee's proposed alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.3.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case, the negligible fire loadings in combination with the fire detection systems and alternate shutdown capability in adjacent zones eliminates the possibility of not achieving or maintaining safe shutdown. Thus the underlying purpose of the rule would be satisfied without requiring fire detection systems and/or fixed fire suppression systems in both of these zones.

Exemption Requested

The licensee requested an exemption from the requirement of section III.G.2 of Appendix R in Fire Zones 1.1.2.1 and 1.3.2 of the Unit 2 Reactor Building and Fire Zones 1.1.1.1 and 1.4.1 of the Unit 3 Reactor Building because an automatic fire suppression system has not been installed.

The staff's concern was that a fire in one of these fire zones could cause a loss of normal safe shutdown capability. However, the fire loading in these fire zones is negligible. Because of the low combustible loading, a fire of significant magnitude or duration is not expected to occur. Fire detection is provided for these fire zones. Therefore, there is reasonable assurance that a fire in any of the subject fire zones will be detected in its early stages and extinguished by the fire brigade before redundant safety-related components are threatened.

The provision of a 1-hour fire rated wrapped conduit that contains the alternative isolation condenser valves power and control feeds routed through these fire zones also ensures that the alternative safe shutdown path remains available with respect to the isolation condenser valve flow path because of the low fire severity potential and lack of fire hazards in these four fire zones. On this basis, the staff concludes, that the licensee's proposed alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.2.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case, the negligible fire loadings in combination with existing fire protection features and alternative shutdown capability eliminate the possibility of not achieving or maintaining safe shutdown. Thus the underlying purpose of the rule would be satisfied without requiring an automatic fire suppression system to be installed.

Exemption Requested

The licensee requested an exemption from the requirements of section III.G.2 of Appendix R in Fire Zones 1.1.1.2 and 1.1.1.3 of the Unit 3 Reactor Building because an automatic fire suppression system has not been installed.

The staff's concern for these two fire zones was that a fire could start and damage redundant Diesel Generator (DG)–⅔ cables or its bus ducts. DG–⅔ supplies power to both units and is required for emergency power in the event of a fire in most five zones.

For both of these fire zones, the fire load is low and does not exceed, on the average, a 21-minute fire severity. In the vicinity of the 1-hour wrapped DG–⅔ cables, there are either no combustibles or only a negligible amount. Therefore, it is expected that a fire would develop slowly and remain small.

Fire detection is provided for these two fire zones so that there is reasonable assurance that the fire brigade would be summoned in a timely manner. Because of the low fire load, the fire brigade can quicly extinguish the fire. In the interim, the Unit 2 cables and bus duct which are 1-hour fire rated wrapped can successfully withstand the effects of a small fire associated with these two fire zones.

The staff has determined that there is reasonable assurance that a fire in either of these two fire zones will not result in the loss of safe shutdown capability. On this basis, the staff concludes that the licensee's proposed alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.2.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case, the low fire loadings in combination with fire detection and protection features provided, eliminate the possibility of not achieving or maintaining safe shutdown. Thus the underlying purpose of the rule would be satisfied without requiring an automatic fire suppression system to be installed.

Exemption Requested

The licensee requested an exemption from the requirements of section III.G.3 of Appendix R in Fire Area TB–V located in the Main Control Room and Auxiliary Electric Equipment Room because a fixed-fire suppression system has not been installed in a fire area for which an alternative shutdown capability is provided.

The staff's primary concern for this fire in the main control room could cause the loss of normal shutdown capability. However, should a fire occur within the main control room, it is expected to be promptly detected by either the automatic fire detection system or by one of the station's personnel manning the area. The fire is expected to develop slowly and be extinguished promptly by the control room personnel or the fire brigade. Should fire damage be extensive, requiring evacuation, then an alternative safe shutdown system can be used. Because Fire Area TB–V has complete 3-hour fire rated barriers (except, as described above, for the unprotected structural steel supporting the Control Room ceiling which will not be subjected to temperatures high enough to cause concern), it is expected that a fire would not spread beyond the barriers because of the low fire load. On this basis, the staff concludes that the licensee's proposed alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with section III.G.3.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. In this case the existing fire detection system or station personnel manning the area should promptly detect the fire and once detected promptly, extinguish it. In the unlikely event that extensive damage, requiring control room evacuation should occur, the alternative safe shutdown system can be used. The above combination eliminates the possibility of not achieving or maintaining safe shutdown. Thus the underlying purpose of the rule would be satisfied without requiring a fixed-fire suppression system to be installed.

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(2)ii), are present justifying the exemption, namely that the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Specifics are

discussed in each exemption request, but in general the underlying purpose of the rule is to accomplish safe shutdown in the event of a single fire and maintain the plant in a safe condition. This is accomplished by assuring that sufficient undamaged equipment is available to support safe shutdown, assuming a fire within the area of concern. In the areas for which an exemption is being requested, passive as well as active fire protection features assure that any single fire will not result in the loss of safe shutdown capability. These features include fire detection systems, separation distance, fire barriers, water spray systems to preclude propagation, and manual actions. The fire protection features, in conjunction with low combustible loadings and in some cases physical location and configurations, provide a high degree of assurance that a single fire will not result in loss of post-fire shutdown capability.

Accordingly, the Commission hereby grants the exemptions from the requirements of 10 CFR part 50, appendix R as described in section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (54 FR 32399) August 7, 1989.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of August 1989.

For the Nuclear Regulatory Commission.

Gary M. Holahan,

Acting Director, Division of Reactor Projects—III, IV, V, and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-19731 Filed 8-21-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Revised, File No. 270-325, Rule 15c2-6]

Forms Under Review By Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142

Upon Written Request Copy Available From: Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street NW., Washington, DC 20549

Notice is here given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance Rule 15c2-6, which would require a registered broker-dealer who recommends a Designated Security to a person other than an established customer to: (1) Approve the customer's account for transactions in Designated Securities by making a documented suitability determination; and (2) obtain written agreement to the transaction from the customer. Four hundred respondents incur an estimated average of seventy eight burden hours to comply with this rule. The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative summary or study of the cost of Commission rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street NW., Washington, DC 20549-6004, and Gary Waxman, Clearance Officer, Office of Management and Budget [Paperwork Reduction Project 3235-03zz], Room 3208, New Executive Office Building, Washington, DC 20543.

Dated: August 16, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-19719 Filed 8-21-89; 8:45 am]

BILLING CODE 8010-01-M

[34-27139; SR-DTC-88-19]

Self-Regulatory Organizations; Depository Trust Company; Order Approving Proposed Rule Change Implementing Automated Tender Offer Program

August 14, 1989.

On November 23, 1988, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR-DTC-88-19) under section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] to implement the Automated Tender Offer Program ("ATOP"). Notice of the proposal was published in the **Federal Register** on December 13, 1988.[2] No comments were received. On February 13, 1989, the Commission granted temporary approval of the proposal for a period of 90 days.[3] Subsequently, on April 13, 1989, DTC filed an amendment to the proposal that included ATOP operating procedures and an ATOP agent agreement.[4] On May 4, 1989, the Commission extended approval of the proposal for an additional 90 days.[5] This order grants permanent approval of the proposed rule change.

I. Description of the Proposal

The proposed rule change will implement ATOP, which is designed to further automate the manner in which tender and exchange offers are processed through DTC. For tender or exchange offers declared eligible for ATOP by DTC, ATOP will permit DTC participants to transmit electronically through DTC to a bidder's agent acceptance of and deliver securities on deposit at DTC that the participant intends to tender.

To accept an offer through ATOP, a participant will send an ATOP instruction to DTC through DTC's Communication system.[6] The ATOP instruction will contain the same information currently contained in DTC's hardcopy Voluntary Offering Instruction form and a special field in which the participant will acknowledge that it has received and agrees to be bound by the terms of the letter of transmittal. If the participant has correctly sent the ATOP instruction and has sufficient securities in its DTC account,[7] DTC will deduct the specified securities from the participant's account and add them to the tender or exchange agent's account. DTC then will generate hardcopy messages reflecting this transaction on the PTS printers in the Offices of the participant and agent. After the close of the offer, the securities are surrendered to the agent, who then makes payment to DTC, which in turn distributes the funds or securities to the tendering participants.

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[1] 15 U.S.C. 78(b)(1).

[2] Securities Exchange Act Release No. 26344 (December 7, 1988), 53 FR 50145.

[3] Securities Exchange Act Release No. 26538 (February 13, 1989), 54 FR 7316.

[4] Securities Exchange Act Release No. 26757 (April 21, 1989), 54 FR 18619.

[5] Securities Exchange Act Release No. 26784 (May 4, 1989), 54 FR 20221.

[6] Because the proposal was fully described in a previous order, only a brief description of ATOP is included here. For a more complete description of ATOP, *see* Securities Exchange Act Release No. 26538 (February 13, 1989), 54 FR 7316. For a description of DTC's communication systems, *see* Securities Exchange Act Release Nos. 24216 (March 3, 1987), 52 FR 8998; 20519 (Dec. 30, 1984), 49 FR 996.

[7] If the participant does not have a sufficient amount of securities in its DTC account at the time the ATOP instruction is submitted, the ATOP instruction will recycle until a sufficient amount of securities are in the account. If the participant does not have a sufficient amount of securities in the account by the end of the day, the ATOP instruction will not be processed.

Under ATOP, participants that accept an offer through the bidder's agent may surrender securities through ATOP. A participant having securities on deposit with DTC may accept an offer through the offeror's agent (also known as a "guarantee of delivery"). The participant then may surrender the securities by means of an ATOP instruction. The ATOP instruction must include an acknowledgement of the letter of transmittal and verification and the date of the acceptance of the offer to the offeror's agent. An incomplete instruction will not be processed. A complete instruction will be processed similar to an offer accepted through ATOP, including the movement of securities to the offeror's agent's account, generation of hardcopy messages and distribution of funds or securities.

II. DTC's Rationale

DTC states that the proposed rule change is consistent with the requirements of the Act and the rules thereunder applicable to DTC. Specifically, DTC believes that the proposed enhancement to DTC's tender and exchange offer services is consistent with the requirement to safeguard securities and funds in DTC's custody or control or for which it is responsible under Section 17A of the Act.

DTC also states that ATOP will alleviate problems arising from use of hardcopy documents in tender and exchange offers, such as the risk of loss, delay during shipment and the expense and labor involved in the physical handling of documents. In addition, ATOP will provide agents for tender and exchange offers with an improved ability to control the processing of such offers by making more information available to the agent (and to the bidder) while an offer is open.

III. Discussion

The Commission believes that the proposal is consistent with section 17A of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions. ATOP will improve tender and exchange offer processing by decreasing risk of loss, reducing participant costs and providing a later cut-off date for the submission of instructions.

ATOP is one step in a continuing effort to bring to the tender and exchange offer processing area the benefits of automation that many other areas of the securities processing industry have had for years. Originally, processing of tender and exchange offers was not integrated into the National Clearance and Settlement System and tender activity was handled through inefficient physical settlement. Significant improvement occurred after the promulgation of Exchange Act Rule 17Ad–14 in 1984, which requires the transfer agent for an issue that is the subject of a tender or exchange offer to establish an account at one or more qualified registered securities depositories to receive tendered securities and letters of transmittal from participants.[8] Since that time Rule 17Ad–14 has encouraged a majority of the tender and exchange offer processing activity to be brought within the automated, centralized environment of securities depositories such as DTC, which processes tender and exchange offers through its Voluntary Offering Program. The Commission agrees with DTC that the rule filing promotes the prompt and accurate clearance and settlement of tender and exchange offer processing by eliminating much of the hardcopy document movement between and among participants, DTC and agents.

DTC's operation ATOP during the pilot period has been smooth. As of July 14, 1989, DTC had processed four offers through ATOP and has six more that were still open. DTC had processed 1,516 instructions involving 22.5 million shares of stock and 1.4 million bonds with a total dollar value of over $681 million (based on tender price). DTC estimates that 200–300 participants have used ATOP to submit tender instructions and a letter of transmittal. DTC has represented that it has sufficient operation capacity to handle a foreseeable peak volume of tender or exchange offer instructions and deliveries through ATOP.[9]

The Commission notes that ATOP will provide, in essence, facilities for communications between agents and participants. Although Exchange Act Rule 17Ad–14 requires agents to establish accounts with DTC because DTC is a qualified securities depository, nothing in that rule currently requires agents to participate in ATOP or to accept ATOP transmittals absent an agreement to do so.

IV. Conclusion

The Commission finds that the proposal is consistent with the requirements of the Act, particularly section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b) of the Act, that the proposed rule change (SR–DTC–88–19) be, and hereby is, permanently approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–19720 Filed 8–21–89; 8:45 am]

BILLING CODE 8010–01–M

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[8] *See* Securities Exchange Act Release No. 20581 (January 19, 1984), 49 FR 3064.

[9] *See* Letter from Carl Urist, Associate General Counsel, DTC, to Ester Saverson, Branch Chief, Division of Market Regulation, Commission, dated August 11, 1989. DTC's computer facility handles an ATOP instruction as if it were a deliver order. DTC can handle deliver orders on a daily basis in the hundreds of thousands. DTC expects that it will receive approximatley to 5000 ATOP instructions on a peak day, giving DTC ample excess processing capacity.

[34–27132; File No. SR–ICC–89–1]

Self-Regulatory Organizations; Intermarket Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Use of Material, Non-Public Information

August 11, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 28, 1989, The Intermarket Clearing Corporation ("ICC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this rule is to implement the provisions of regulation 1.59(c) of the Commodity Exchange Act. Regulation 1.59(c) generally prohibits governing members of self-regulatory

organizations who possess material, non-public information obtained as a result of their official duties as board or committee members from using or disclosing such information. The general purpose and effect of the prohibition was discussed in the Commodity Futures Trading Commission's release published in the **Federal Register** on December 29, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Proposed rule 223 would prohibit, pursuant to regulation 1.59(C) of the Commodity Exchange Act, a member of ICC's Board of Directors or a member of any committee of ICC from using or disclosing, for any purpose other than the performance of such member's official duties as a governing member, material, non-public information obtained as a result of such member's participation on the Board or any committee. The Rule further provides that if a governing member can show that a transaction was in the ordinary course of business, he will be deemed not to have misused the information he possessed unless it can be shown that he would not have effected the transaction in the absence of such information.

The proposed rule change is consistent with the purposes and requirements of section 17A of the Securities Exchange Act of 1934, in that it will limit the use of material, non-public information obtained by governing members as a result of their official duties as board members or committee members. This limitation, in turn, is necessary for the protection of investors and the maintenance of a fair and orderly market.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

ICC did not solicit nor did it receive any comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of SR–ICC–89–1 will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR–ICC–89–1 and should be submitted by September 12, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89–19725 Filed 8–21–89; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–27144; File No. SR–NASD–89–36]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Registration Category, Study Outline and Specifications for Series 28 Examination, Introducing Broker/Dealer Financial and Operations Principal

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 28, 1989 the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule amends Schedule C of the NASD By-Laws to add an additional category of registration, Introducing Broker/Dealer Financial and Operations Principal. Upon effectiveness of the proposed amendment, the new text would be designated as part II, section (2)(c) of schedule C. The text of the change is as follows:

(c) Limited Principal—Introducing Broker/Dealer Financial and Operations:

(i) Every member of the Corporation, which is operating pursuant to the provisions of SEC Rule 15c3–1(a)(2) (i) or (vi) and to the provisions of SEC Rule 15c3–3(k)(2)(ii), shall designate as Limited Principal—Introducing Broker/Dealer Financial and Operations those persons associated with it, at least one of whom shall be its chief financial officer, who perform the duties described in Part II, section (2)(c)(ii) hereof. Each person associated with a member who performs such duties shall be required to register as a Limited Principal—Introducing Broker/Dealer Financial and Operations with the Corporation and shall pass an appropriate Qualification Examination before such registration may become effective.

(ii) The term "Limited Principal—Financial and Operations" shall mean a person associated with a member whose duties include:

(a) final approval and responsibilities for the accuracy of financial reports submitted to any duly established securities industry regulatory body;

(b) final preparation of such reports;

(c) supervision of individuals who assist in the preparation of such reports;

(d) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived;

(e) supervision and/or performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Securities Exchange Act of 1934;

(f) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations; or

(g) any other matter involving the financial and operational management of the member.

Subsequent Sections To Be Re-Numbered Accordingly.

The National Association of Securities Dealers, Inc. ("NASD") is also submitting the examination specifications and study outline for this registration category. The examination will be designated Series 28. The specifications and study outline items do not involve any textual changes to the NASD's By-Laws, Schedules to the By-Laws, rules, practices or procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In implementing the recommendations of the Regulatory Review Task Force, the NASD Board of Governors determined that it was appropriate to approve a new registration category, Introducing Broker/Dealer Financial and Operations Principal, for principals of introducing general securities firms. All introducing and clearing firms are required to qualify financial and operations principals on the Series 27 examination. It was recognized, however, that the Series 27 examination tested knowledge of subject areas such as margin accounts, the Uniform Practice Code and the Customer Protection Rule (SEC Rule 15c3–3), which would not be relevant to a financial and operations principal at an introducing firm. The Board determined that the proposed registration category would address this situation, while still assuring an appropriate level of qualifications in introducing firms in the financial and operations area. The proposed registration category is also intended to povide greater flexibility to members in qualifying their personnel.

With respect to the Series 28 examination, specifications and study outline, it is the NASD's responsibility under section 15A(g)(3) of the Securities Exchange Act of 1934 ("the Act") to prescribe standards of training, experience, and competence for persons associated with the NASD members. Pursuant to this statutory obligation, the NASD has developed examinations that are administered to establish that persons associated with NASD members have attained specific levels of competence and knowledge.

The proposed rule change is consistent with the provision of section 15A(g)(3) of the Securities Exchange Act of 1934, pursuant to which the NASD prescribes standards of training, experience, and competence for persons associated with NASD members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the new registration category or the study outline and specifications impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments regarding the new registration category, study outline and specifications were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by September 12, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: August 15, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-19723 Filed 8-21-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27142; Filed No. SR-NASD-89-34]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Buy-in Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 13, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the NASD's Uniform Practice Code (the "Code"). The proposed rule change amends the procedures for the handling of buy-ins and provides for the handling of buy-ins by electronic capabilities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the

proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In September of 1987 the NASD initiated a review of the Code with the intent of amending, where necessary, certain provisions to bring the Code into conformity with current industry standards and practices. One of the sections which has been reviewed in particular is section 59, pertaining to "buy-in" procedures. Aftrer extensive study and discussion, the NASD Board upon the recommendation of the Uniform Practice Committee and its Operations Subcommittee has adopted proposed amendments to section 59 to more clearly define the procedures which should be followed by broker-dealers in their handling of "buy-ins". The new procedures are specifically designed to provide for the use of sophisticated and modern methods of sending "buy-in" notices and reflect current electronic notification and response methods. The amendments will allow members to utilize the Depository Trust Company's ("DTC") Participant Exchange Service ("PEX") which is an on-line system whereby a member can send and repond to various types of "buy-in" reorganization and stock loan items. PEX is expected to be implemented in the third quarter of 1989.

The proposed rule change is intended to reflect current methods of communciation and to eradicate from the Code provisions that are obsolete.

The NASD has adopted the proposed rule change pursuant to Section 15A(b)(6) udner the act. In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to "* * * foster cooperation and coordination with persons engaged in regulatory, clearing, settling and facilitating transactions in securities * * * The NASD believes that the proposed rule change is consistent with these objectives.

B. Self-Regulatory Organziation's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessarily or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organziation's Statement on Comments on the Proposed Rule change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

With 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with repsect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above (SR-NASD-89-34) and should be submitted by September 12, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 15, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-19722 Filed 8-21-89; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-27143; File No. SR-NSCC-89-10]

Self-Regulatory Organizations; Notice of Filing of the Proposed Rule Change by National Securities Clearing Corp.; Regarding a Description of NSCC's Telecommunications System

August 15, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 19, 1989 NSCC filed the proposed rule change File number SR-NSCC-89-10, with the Securities and Exchange Commission as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a description of NSCC's telecommunications system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) The purpose of the proposed rule filing is to comply with the Commission's request that NSCC describe its Data Communications Services, which facilitate the automated transmission of data between Members and the computer system operated by SIAC, NSCC's facilities manager.

The physical connection for the transmission of data is established by a communications link between the Member's Main Frame Computer or Personal Computer (PC) and SIAC's Main Frame Computer. When Members use Main Frame Computers, each Member develops its own application software that delivers data to (or receives data from) SIAC for a

particular service in an NSCC prescribed standard manner. That is, NSCC prescribes the input and output formats, but the Member collects, edits and prepares data and then transmits it to (or receives it from) SIAC using the prescribed formats.

Members preferring to use a PC may also access SIAC's Main Frame Computer using NSCC's PC Access System or the IBM Information Exchange communications system, for input and output of bond data. NSCC also develops and provides the PC edit application software programs to simplify the Member's entry of data. Using the Information Exchange, data is sent by the Member (or SIAC) to a central IBM service bureau where it is collected and then routed to SIAC (or the Member).

NSCC's PC Access System is a PC communication methodology which will eliminate the IBM Information Exchange so that data will pass directly between SIAC and the Members PC. Members are currently being converted from the IBM Information Exchange to NSCC PC Access. NSCC anticipates that this methodology will be completely in place by the end of 1989.

NSCC is also in the process of developing a PC application for input of RECAPS data (scheduled to be available this September) and input and output of ACATS data (scheduled to be available fourth quarter 1989). Other PC applications will follow.

Members can utilize most types of Main Frame Computers. The PC's must be either IBM or IBM clones (perform the functions of an IBM PC). For both PC's and Main Frame Computers, the Member may connect to the SIAC computer via a private line, a dial-up line connected to a dedicated port, or a dial-up line connected to a hunt group. A private line is installed directly between the Member's system and a SIAC port and provides direct communications without use of a dial-up telephone line.

A dial-up line connected to a dedicated port allows the Member to dial a telephone line directly to a SIAC port dedicted to that Member at SIAC. Each private line and dedicated dial-up line associated with each port has definitions which are unique to the Member, so that one Member's line will not work in another's port.

A dial-up line connected to a hunt group allows the Member to dial a telephone line into a SIAC sharing device called a hunt group. A hunt group device is comprised of a five ports with twenty-five sharing Members per group. Only five of the twenty-five Members may be connected at any point in time. Each Member is provided a telephone number for his group. The call will hunt to one of four other numbers associated with the other ports in the hunt group if the first port is being utilized. In the unlikely event that a Member is unable to connect with one of the ports in the hunt group because all ports are being utilized, the Member may call the SIAC Help Desk and SIAC provides temporary access to a different port, or the Member may redial at a later time.

There are several compatibility requirements between the Member's and SIAC's systems. For PC's, SIAC accepts private and dial-up line speeds of either 4800 or 9600 bps (bit per second). For Main Frames, SIAC accepts private and dial-up line speeds of 4800 bps, 9600 bps, or 56,000 bps. In addition, the Member's Main Frame Computer must be compatible with SIAC's line protocols. (Line protocols define the method by which computers communicate with each other and transmit data to each other.) The line protocols must be either bisynchronous or SNA and also support either RJE or NJE. Bisychronous protocol requires a pause and line turnaround for the transmission of data and its acknowledgment. SNA allows the passage of data and acknowledgments to occur simultaneously without line turnaround. RJE and NJE are the subsets of the line protocols which identify the Member's computer system configuration that the data is coming from, in order to establish the way the systems communicate.

The Member's Main Frame Computers may also support theree different optional bulk transfer mechanisms, BDT II, NDM and Netview File Transfer. These mechansims provide benefits for services that require high volumes of data because they allow data to be compressed and allow an interrupted transmission of data to be restarted without resending the entire file from the beginning.

As stated above, Members can access NSCC services through either private lines or dial-up lines. At this time, 25% of NSCC's 290 Member connections are private lines, and 75% are dial-up lines. NSCC notes and shares the Commission concerns, expressed in orders approving other clearing agency automated communications systems, about unauthorized access to securities, funds, and data through use of dial-up computer connections (see Securities Exchange Act Release No. 20519 December 30, 1983, approving file Nos. SR-DTC-76-8; SR-MSTC-77-9; SR-MCC-77-4; SR-Philadep-83-3). However, the Commission has approved dial-up systems presented by other clearing agencies based on a review of the safeguards employed by those systems and the economic and beneficial alternative that dial-up systems present to smaller participants. (See Release No. 21227 dated August 15, 1984 approving SR-MCC-84-5 and SR-MSTC-84-5, and Release No. 22939 dated February 28, 1986 approving SR-OCC-85-20).

NSCC has, similar to these clearing agencies, developed a system of intruder blocks for dial-up lines which prevent unauthorized access into NSCC's system. There are four levels of blocks which must be passed before data can actually be entered:

(a) *Level One:* (Physical Connection) There must be a match between the physical connection of the Member's Main Frame Computer or PC (modem type, line speeds and protocol) and the SIAC port accessed by the telephone number.

(b) *Level Two:* (Computer Operating System Connection) Each Member is provided a unique communication ID (identifying the communications link) when first connected to SIAC's Main Frame. This ID is checked each time the Member tries to access the SIAC Computer. The Member will not be able to enter Job Control Language (JCL) (which is a programming language used to communicate with a Main Frame), unless the ID is correct.

(c) *Level Three:* (Job Entry System "JES" Identification) The Member's system sends a unique JES identification ID and a unique password in Job Control Language in order to log on to JES. Each Member has his own version of JCL in order to define himself to the SIAC system. The JES identification ID and JCL password are checked for validity and cross checked against the communication ID in the SIAC system. If valid, the JCL password and JES identification will only allow the Member to enter JES. JES is a set of codes which allows the Member to transmit data for subsequent processing or receive data that has already been processed. The Member is locked out of other SIAC systems which might allow for other tasks. Once the Member is logged on to JES he can inform the system that data is forthcoming or request transmission of data to him.

(d) *Level Four:* (Data Entry) Another unique password identifying the Member to the application programs and Datatrak is entered with his JCL and then used to allow the Member access to SIAC's Datatrak system. Datatrak routes data to the appropriate application program for subsequent processing. In addition, Datatrak does a basic check on the data to assure that it contains the

proper date, and the proper ID for the program to run. Datatrak also checks the first four lines of the data to make sure that it conforms to the required format for the service to be accessed. Finally, Datatrak checks the total number of records sent and compares it with a masterfile of the usual number of records sent by a particular Member. If any of the information is incorrect, the data will either be rejected or held in abeyance and sent to a Datatrak control desk, where the Member is contacted to investigate the problem and determine further action.

If a Member fails to connect at any level in the process after three attempts, his communication ID will not be able to be entered into the system to tray access again. Once the problem is resolved, the Member will be re-activated by SIAC security.

Private lines are secure by virtue of the fact that there is a direct line installed between the Member's system and a port at the SIAC computer. That line is used only by the Member and can only be rearranged (connected to another port) by SIAC. Even if the line is rearranged, it would not work on another Member's port unless the port were reprogrammed. Once the physical connection is established, the various levels of intruder blocks are the same for private lines as for dial-up lines. Specific conversion procedures for either Main Frame Computers or PC's have been established for access by a Member.

(2) The proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions by providing Members with automated, secure and cost effective access to NSCC services. Therefore, it is consistent with the requirements of the 1934 Act and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and published its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to SR–NSCC–89–10 and should be submitted by September 12, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–19721 Filed 8–21–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27141; File No. PHLX–89–44]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Revised Philadelphia Stock Exchange Automated Communication and Execution System ("PACE") Limit Order Execution Criteria.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 10, 1989, the Philadelphia Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange ("PHLX") submits as a proposed rule change revised Philadelphia Stock Exchange Automated Communication and Execution System ("PACE") limit order execution criteria. The text of Rule 229 (b) (1) through (4) has been replaced in full with the following new text. Rule 229.

* * * Supplementary Material

.10(b) Market orders and round-lot limit orders of 600 to 1000 shares and PRLs of 601 to 1099 shares and such limit orders of greater size up to 5000 shares that the specialist may accept must be entered at least (3) minutes prior to the opening in order to be guaranteed the opening price. Round-lot limit orders and PRLs entered after the opening shall be provided a professional execution in accordance with the following standards.

1. Circumstance: Limit order price is between the PACE quote when received by the specialist.

Standard: Each time the primary market prints a trade at the limit order's price, a portion of the limit order equal to the size of the primary market print shall be entitled to be excuted.

2. Circumstance: Limit order price is away from the PACE quote when received by the specialist; limit order price is on the PACE quote when received by the specialist.

Standard: The primary market quotation size associated with the PACE bid or offer which matches the limit price shall be ascertained (hereinafter referred to as the Reference Quote.) The limit order shall be entitled to an execution when the primary market prints a trade or trades equaling the limit price and aggregating to the size of the Reference Quote; after which each time the primary market prints a trade at the limit order's price, a portion of the limit order equal to the size of the primary market print must be executed.

3. Circumstance: Order is received by the specialist two (2) minutes or less prior to the close.

Standard: A reasonable effort will be made to execute the order.

4. Orders executed under this paragraph (b) will be executed at or within the primary market high-low range existing at the time of execution.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The PACE system provides to PHLX member organizations a cost efficient, competitive order delivery and execution system for public customer orders. In the years prior to 1983, the PACE system was considered to be a system for the delivery and execution of small orders, *e.g.*, 1 to 599 shares.

On May 17, 1983, the Securities and Exchange Commission ("SEC") approved a PHLX rule change (SR–PHLX–83–5) which permitted use of PACE computer facilities to enable member organizations to electronically transmit, directly to the specialist post, orders in issues and of order size designated by the specialist, with a minimum order size of 600 shares.

On September 17, 1986, the SEC approved a PHLX rule change (SR–PHLX–86–30) which increased PACE order size eligibility from 599 to 1099 shares. Orders up to 599 shares continued to be executed in accordance with PHLX Rule 229. Orders of 600 to 1099 shares were not subject to the execution parameters of Rule 229 and such orders were executed in accordance with other applicable rules of the PHLX.

On May 19, 1988, the SEC approved a PHLX rule change (SR–PHLX–87–30) which provided for a professional execution for limit orders of 600 shares or greater routed to specialists over PACE as well as guidance to PHLX specialists, by identifying the types of trades that constitute a professional execution of this class of limit orders. Such standards imposed a number of trading obligations upon PHLX specialists when executing PACE limit orders of 600 shares or more.

By specifying the execution standards set forth in SR–PHLX–87–30, the Exchange provided for increased consistency in the execution of limit orders on the floor and, at the same time, provided notice to PACE users of the kind of execution they can expect for larger limit orders delivered over the PACE system. Such standards are reflected in Commentary .10(b) of PHLX Rule 229.

The purpose of the instant proposed rule change is to simplify and improve the standards approved on May 19, 1988, based upon experience gained during the appoximately one (1) year of their use. Under the proposed rule change, both market and limit orders up to 599 shares will continue to be executed in accordance with the current provisions of Rule 229 and its accompanying Commentary .01 through and including .10(a).

Prior to this amendment, paragraph .10(b) dealt only with orders delivered after the opening. The present proposal adds a standard of guaranteeing the opening price on orders entered at least three (3) minutes prior to the opening. In the case of orders received by the specialist less than three (3) minutes prior to the opening, a reasonable effort will be made to execute such orders at the opening price.

The standard under Circumstance 1 has been amended to delete reference to the New York market since both New York and American Stock Exchange issues are traded through PACE. The reference to New York caused confusion. It is proposed that the reference be changed to primary market. In addition, reference to execution of marketable limit orders has been deleted because such standard applies to all orders, whether or not delivered through the PACE system and, therefore, it is confusing and redundant.

Circumstance 2 has been broadened to include a limit order price which is outside the PACE quote when received by the specialist. In either case, when the limit order price is away (*i.e.*, outside) the PACE quote when received by the specialist or when the limit order price is on the PACE quote when received by the specialist, after ascertaining the primary market quotation size, the specialist would be obligated to execute the limit order when the primary market prints a trade that is equivalent to the limit price and aggregates to the size of the reference quote.

Old Circumstance 3, which dealt with a limit order price which is outside the PACE quote when received by the specialist, has been deleted in its entirety and such orders have been included in the execution criteria of Circumstance 2. The previously established standard for execution of this type of order was confusing and difficult to administer. The new execution criteria improves and simplifies executions and provides better service to retail users of the PACE system.

New Circumstance 3 has been established in order to afford specialists the opportunity to seek execution of orders in other markets by means of the Intermarket Trading System ("ITS"). By the terms of PHLX rules, members must avoid trading through a superior bid or offer of another market which is an ITS participant. In order to avoid such an occurrence, a PHLX specialist may choose to send a commitment to trade to such other market against the superior bid or offer. Since the receiving market has up to two (2) minutes to respond to the commitment, at least that much time is required of the PHLX specialist to make such effort and receive a response prior to the close.

Old Circumstance 4, which dealt with a limit price traded through by a transaction reported on a market eligible to compose the PACE quote, has been deleted in its entirety because such standard applies to all orders whether or not delivered through the PACE system and, therefore, is confusing and redundant.

New Circumstance 4 provides that execution of an order under the conditions set forth in this proposal will not breach the existing primary market high or low. In other words, the order will be executed at or within the primary market high-low range existing at time of execution. This new standard improves substantially the competitiveness of the criteria as proposed.

Equity specialists and member organizations may choose to participate in trading on the PACE system or they may choose not to do so. To the extent a specialist chooses to accept orders through the PACE system as described herein, such orders are entitled to an execution under the terms of the proposed rule.

Since such stock has unique trading characteristics respecting depth, liquidity, volatility and so forth, not every stock may be suitable for a program involving execution of larger orders on the basis of predetermined execution criteria. Because of this, and in the interest of administrative ease, specialists choosing to participate in the program will establish an order eligibility size of either 2500 shares or 5000 shares on a stock by stock basis. Orders up to either size will be executed under the terms of the proposed rule. Except under unusual circumstances, the

specialist must remain committed to his order size eligibility elections for at least six (6) months thereby proving stability and continuity to the list of issues in the program. Under exceptional or extraordinary circumstances, the Floor Procedure Committee may grant a specialist's withdrawal from the program.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it will promote just and equitable principles of trade; facilitate transactions in securities and remove impediments to, and perfect the mechanism of, a free and open market and a national market system; and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 12, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 14, 1989.

Jonathan G.Katz,

Secretary.

[FR Doc. 89-19724 Filed 8-21-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 6814]

Arkansas; Declaration of Disaster Loan Area

The counties of Clark, Dallas, Drew, Grant, Hempstead, Hot Spring, Ouachita, Sevier, and Union, and the contiguous counties of Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Desha, Garland, Howard, Jefferson, Lafayette, Lincoln, Little River, Miller, Montgomery, Nevada, Pike, Polk, Pulaski, and Saline, in the State of Arkansas, constitute an Economic Injury Disaster Loan Area as a result of damages resulting from flooding caused by severe storms, including Tropical Storm Allison, beginning on May 4 and continuing through July 1989. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on May 4, 1990 at the address listed below: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, TX 75051.

or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: August 4, 1989.

Susan Engeleiter,

Administrator.

[FR Doc. 89-19747 Filed 8-21-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2375]

OHIO; Declaration of Disaster Loan Area

Franklin County and the contiguous counties of Delaware, Fairfield, Licking, Madison, Pickaway, and Union, in the State of Ohio, constitute a disaster area as a result of damages from heavy rains and flooding which occurred on July 27, 1989. Applications for loans for physical damage may be filed until the close of business on October 12, 1989 and for economic injury until the close of business on May 11, 1990 at the address listed below: Disaster Areas 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Fl., Atlanta, Georgia 30308.

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Businesses and non-profit organizations (EIDL) without credit available elsewhere	4.000
Others (including non-profit Organizations) with credit available elsewhere	9.125

The number assigned to this disaster for physical damage is 237506 and for economic injury the number is 682400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 11, 1989.

Susan Engeleiter,

Administrator.

[FR Doc. 89-19748 Filed 8-21-98; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 6808]

Washington; Declaration of Disaster Loan Area

The counties of Clallam, Skagit, and Whatcom, and the contiguous counties of Chelan, Island, Jefferson, Okanogan, San Juan, and Snohomish, in the State of

Washington, constitute an Economic Injury Disaster Loan Area as a result of damage from the oil spill in Alaska's Prince William Sound area, which occurred on March 24, 1989. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on May 2, 1990 at the address listed below: Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, California 95853–4795. or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: August 2, 1989.

Susan Engeleiter,

Administrator.

[FR Doc. 89–19749 Filed 8–21–89; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council, Providence, R.I.; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Providence, will hold a public meeting at 9:00 a.m. on Wednesday, August 23, 1989, at Metacomet Country Club, Veterans Memorial Parkway, East Providence, Rhode Island, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Anthony J. McMahon, District Director, U.S. Small Business Administration, Providence District Office, 380 Westminster Mall, 5th Floor, Providence, Rhode Island 02903, phone (401) 528–4580.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 15, 1989.

[FR Doc. 89–19751 Filed 8–21–89; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council, Columbia, SC; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, will hold a public meeting at 9:30 a.m. on Tuesday, September 26, 1989, at The Heritage, 260 W. Palmetto Street, Florence, South Carolina to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John C. Patrick, Jr., District Director, U.S. Small Business Administration, P.O. Box 2786, Columbia, South Carolina 29202, phone (803) 765–5339.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 15, 1989.

[FR Doc. 89–19752 Filed 8–21–89; 8:45 am]

BILLING CODE 8025–01–M

National Small Business Development Center Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Tuesday, September 26, 1989, from 9:00 a.m., to 10:00 a.m. at the Franklin Life Insurance Company, Franklin Square, Springfield, Illinois.

The purpose of the meeting is to discuss such matters as may be presented by Advisory Board Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Hardy Patten, U.S. Small Business Administration, 1441 L Street, NW., Room 317, Washington, DC 20416, telephone (202) 653–6768.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 15, 1989.

[FR Doc. 89–19750 Filed 8–21–89; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 02/02–0526]

Paribas Principal Inc., Notice of Issuance of a Small Business Investment Company License

On February 23, 1989, a notice was published in the **Federal Register** (54 FR 7908) stating that an application has been filed by Paribas Principal Incorporated, 727 Seventh Avenue, 33rd Floor, New York, New York 10019, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)) for a license to operate as a small business investment company.

Interested parties were given until close of business March 25, 1989, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0526 on August 2, 1989, to Paribas Principal Incorporated to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small business Investment Companies)

Dated: August 11, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment

[FR Doc. 89–19753 Filed 1–21–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 45663]

Robert O. Nay, Emerald Tours, Ltd. (Virginia), World Classics, Ltd., and Emerald Tours, Ltd. (Illinois), Enforcement Proceeding; Hearing

Notice is hereby given that the hearing in the above-entitled matter is assigned to be held on August 30, 1989, at 10:00 a.m. (local time), Room 5332, Department of Transportation, 400 7th Street SW., Washington, DC, before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, DC, August 15, 1989.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 89–19643 Filed 8–21–89; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–89–33]

Petitions for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. the purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended

to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 11, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No._____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued at Washington, DC, on August 15, 1989.

Deborah Swank,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 24950
Petitioner: General Electric Company, Aircraft Engine Business Group
Sections of the FAR Affected: 14 CFR 21.325(b) (1) and (3)
Description of Relief Sought: To extend Exemption No. 4675 that allows Class I, II, and II products, which have been manufactured, assembled, and tested by Rolls Royce Limited, located in Derby, England, to be eligible for the issuance of export airworthiness approvals. Exemption No. 4675 will expire on December 29, 1989.

Docket No.: 24104
Petitioner: Robert Haveman Air Charter
Regulations Affected: 14 CFR 43.3(g)
Description of Relief Sought: To allow petitioner's pilots to change the seating configuration on petitioner's Cessna 310K, 401A, and 402B aircraft.

Docket No.: 25919
Petitioner: Kletus W. Rood
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To allow petitioner to continue to serve as crewmember on commercial air carriers past his 60th birthday.

Docket No.: 25947
Petitioner: Embraer
Sections of the FAR Affected: 14 CFR 135.159 (a) and (b)
Description of Relief Sought: To allow petitioner to operate CBA–123 airplanes without being equipped with a gyroscopic rate-of-turn/slip-skid indicator. A backup, third attitude indicator would be substituted for the gyroscopic rate-of-turn indicator.

Docket No.: 25962
Petitioner: U.P. Exec Air
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought: To allow petitioner's properly trained pilot to remove and reinstall seats and a stretcher in either of the two aircraft operated by the petitioner (a Cessna 310 and a Cessna 421).

Docket No.: 25184
Petitioner: Imperial Aviation, Inc.
Regulations Affected: 14 CFR 121.371(a)
Description of Relief Sought/ Disposition: To extend Exemption No. 4793 that allows petitioner to use certain original equipment manufacturers to perform maintenance, preventive maintenance, and alterations outside of the United States on petitioner's Fairchild FH–227 aircraft. Grant, August 10, 1989, Exemption No. 5084

Docket No.: 25351
Petitioner: USAir
Regulations Affected: 14 CFR 121.371(a) and 121.378
Description of Relief Sought/ Disposition: To amend Exemption No. 5005 that allows petitioner to utilize certain foreign original equipment manufacturers and related repair facilities to perform maintenance, preventive maintenance, and alterations on the compenents, parts, and applicances that are produced by such foreign manufacturers and used on the BAC 1–11, BAe–146, B–737–300, and MD–80 aircraft operated by USAir. The amendment would add the Fokker F–28 and F–100 and Boeing B–737–400 and B–767–200ER aircraft to the provisions of the exemption. Grant, August 2, 1989, Exemption No. 5005A

Docket No.: 25638
Petitioner: Midway Commuter Airlines
Sections of the FAR Affected: 14 CFR 135.429(a) and 135.435
Description of Relief Sought/ Disposition: To allow petitioner to use components, parts and accessories repaired, overhauled, or otherwise maintained by foreign original equipment manufacturers on its German-built DO228–201/202 aircraft. Grant, August 10, 1989, Exemption No. 5083

Docket No.: 25810, et al.
Petitioner: Mountain Air Cargo, Inc., et al.
Regulations Affected: 14 CFR 121.343(b)
Description of Relief Sought/ Disposition: To continue operation of certain aircraft with currently installed flight data recorders beyond the digital flight data recorder installation compliance data of May 26, 1989. Grant, May 25, 1989, Exemption No. 5051

Docket No.: 25972
Petitioner: Federal Express Corporation
Sections of the FAR Affected: 14 CFR 121.291(b0(1) and (d)
Description of Relief Sought/ Disposition: To allow petitioner to begin Boeing B–747 operations without first conducting a partial demonstration of emergency evacuation procedures and without showing by simulated ditching that it is able to efficiently carry out its ditching procedures. Grant, August 14, 1989, Exemption No. 5080

Docket No.: 25976
Petitioner: Resort Commuter, Inc.
Sections of the FAR Affected: 14 CFR 135.337(a)(2), (3), and (4) and 135.339(c)(1)
Description of Relief Sought/ Disposition: To allow petitioner to use certain instructor pilots of British Aerospace Corporation to train petitioner's initial cadre of pilots in the British Aerospace Jetstream 31 (BA–3201) type airplane without meeting all of the applicable training requirements of Subpart H of Part 135. Grant, August 7, 1989, Exemption No. 5081

Docket No.: 25986
Petitioner: Federal Express Corporation
Sections of the FAR Affected: 14 CFR 121.163(b)(1)
Description of Relief Sought/ Disposition: To allow petitioner to operate Boeing B–747 and McDonnell Douglas DC–8 airplanes without complying, at this time, with the requirements to conduct aircraft proving tests. Grant, August 4, 1989, Exemption No. 5079

[FR Doc. 89–19687 Filed 8–21–89; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Forsyth County, North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be

prepared for a proposed highway project within Forsyth County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, NC 27611, Telephone (919) 790–2852.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the City of Winston-Salem and the North Carolina Department of Transportation (NCDOT), will prepare an Environmental Impact Statement (EIS) on a proposed Northern Beltway (Western Section) location. The proposed action will be a multi-lane divided facility, potentially on a new location, and will run from US 158 (Clemmonsville Road area) to US 52 near the NC 65 intersection in Forsyth County. Access control to the facility has not been determined at this time.

Alternatives under consideration include: (1) The "no-build," (2) improving existing facilities, (3) a highway on new location. Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State, and local agencies. Public meetings and meetings with local officials and neighborhood groups will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To assure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 14, 1989.

Roy C. Shelton,

District Engineer, Raleigh, NC.

[FR Doc. 89–19744 Filed 8–21–89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Richmond and Montgomery Counties, North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project within Richmond County and Montgomery County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, NC 27611, Telephone (919) 790–2852.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed US 220 improvement. The proposed action will be a multi-lane divided facility potentially on a new location and will run from the existing four-lane section just south of Ellerbe, in Richmond County, to the existing four-lane section just north of Emery, in Montgomery County. The proposed facility will have full control of access with interchanges and grade separations.

Alternatives under consideration include: (1) The "no-build," (2) improving existing facilities, (3) a full control of access highway on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State, and local agencies. Public meetings and meetings with local officials and neighborhood groups will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time. To assure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: August 14, 1989.

Roy C. Shelton,

District Engineer, Raleigh, NC.

[FR Doc. 89–19745 Filed 8–21–89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 15, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8817
Type of Review: New Collection
Title: Allocation of Patronage and Nonpatronage Income and Deductions
Description: Form 8817 is used by taxable Farmer Cooperatives to indicate their income and deductions by patronage and nonpatronage source. IRS uses this information to improve the classification of returns for examination, and to enhance taxpayer compliance.
Respondents: Farms, Businesses of other for-profit
Estimated Number of Respondents: 1,650
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping, 17 hours, 2 minutes
Learning about the law or the form, 30 minutes
Preparing and sending the form to IRS, 48 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/Reporting Burden: 22,726 hours
OMB Number: 1545–0099
Form Number: Form 1065 and Schedules D and K–1 (Form 1965)
Type of Review: Revision
Title: U.S. Partnership Return of Income, Capital Gains and Losses, Partner's Share of Income, Credits, Deductions, etc.
Description: Internal Revenue Code section 6031 requires partnerships to file returns that show gross income items, allowable deductions, partners' names, addresses, and distribution shares, and other information. This information is used to verify correct reporting of partnership items and general statistics.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 1,900,026

Estimated Burden Hours Per Response/ Recordkeeping:

	1065	Sched. D	Sched. K-1
Recordkeeping	65 hours., 17 mins	5 hrs., 1 min.	27 hrs., 1 min.
Learning about the law or the form	29 hrs., 24 mins	2 hrs	10 hrs., 23 mins.
Preparing the form	54 hrs., 5 mins	4 hrs., 58 min	25 hrs., 15 mins.
Copying, assembling, and sending the form to IRS	6 hrs., 26 mins	48 mins	4 hrs., 1 min.

Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 1,006,211,641 hours
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderfauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-19663 Filed 8-21-89; 8:45 am]

BILLING CODE 4810-25-M

Departmental Offices Performance Review Board

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: This notice lists the membership of the Departmental Offices Performance Review Board (PRB) and supersedes the list published in 54 FR 20474 dated May 11, 1989, in accordance with 5 U.S.C. 4313(c)(4). The purpose of the PRB is to review senior executive employees' performance and make recommendations regarding performance ratings, performance awards and other personnel actions.

The names and titles of the PRB members are as follows:

Linda M. Combs—Assistant Secretary of the Treasury for Management (Chair)
David M. Nummy—Deputy Assistant Secretary of the Treasury for Departmental Finance and Management
David W. Mullins—Assistant Secretary of the Treasury for Domestic Finance
Salvatore R. Martoche—Assistant Secretary of the Treasury for Enforcement
Edith E. Holiday—General Counsel
David C. Mulford—Under Secretary of the Treasury (International Affairs)
Charles H. Dallara—Assistant Secretary of the Treasury for International Affairs
Gerald Murphy—Fiscal Assistant Secretary
John P. Simpson—Deputy Assistant Secretary of the Treasury (Regulatory, Tariff and Trade Enforcement)
Marcus W. Page—Deputy Fiscal Assistant Secretary
Charles Schotta—Deputy Assistant Secretary for Arabian Peninsular Affairs
William E. Barreda—Deputy Assistant Secretary for Trade and Investment Policy
Charles B. Respass—Deputy Assistant Secretary for Administration
Steven W. Broadbent—Deputy Assistant Secretary for Information Systems
William H. Gillers—Deputy to the Assistant Secretary (Management)
John G. Wilkens—Senior Advisor (Economics)
John H. Auten—Director, Office of Financial Analysis
Ralph L. Bayrer—Director, Office of Synthetic Fuels Project
Jon M. Gaaserud—Director, U.S. Saudi Arabian Joint Commission Program Office
Thomas P. O'Malley—Director, Financial Services Directorate
Charlene J. Robinson—Director, Human Resources Directorate
G. Martin Wagner—Director, Office of Telecommunications Management
Thomas S. Neubig—Director, Office of Tax Analysis.

DATES: Memberships on the Performance Review Board are effective as of this date.

FOR FURTHER INFORMATION CONTACT: Larry G. Hicks, Executive Secretary, PRB, Room 1314, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Telephone: (202) 566-5468. This notice does not meet the Department's criteria for significant regulations.

Linda M. Combs,

Assistant Secretary of the Treasury for Management.

[FR Doc. 89-19696 Filed 8-21-89; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 161
Tuesday, August 22, 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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, September 1, 1989.

PLACE: 2033 K St. NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89–19889 Filed 8–18–89; 3:18 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, September 1, 1989.

PLACE: 2033 K St. NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89–19890 Filed 8–18–89; 3:12 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, September 15, 1989.

PLACE: 2033 K St. NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89–19891 Filed 8–13–89; 3:18 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, September 22, 1989.

PLACE: 2033 K St. NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89–19892 Filed 8–18–89; 3:18 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, September 29, 1989.

PLACE: 2033 K St. NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89–19893 Filed 8–18–89; 3:18 am]
BILLING CODE 6351-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, August 28, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Street, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on August 24, 1989.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 18, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89–19895 Filed 8–18–89; 3:51 am]
BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 21, 28, September 4, and 11, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 21

There are no meetings scheduled for the Week of August 21.

Week of August 28—Tentative

There are no meetings scheduled for the Week of August 28.

Week of September 4—Tentative

There are no meetings scheduled for the Week of September 4.

Week of September 11—Tentative

Thursday, September 14

10:00 a.m.
Briefing on Status of NRC Technical Training Programs (Public Meeting)

2:00 p.m.
Briefing on Emerging Technical Issues (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, September 15

9:00 a.m.
Briefing on Status of Maintenance Initiatives and Schedule (Public Meeting)

ADDITIONAL INFORMATION: By a vote of 4–0 on August 10, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Motion by Joseph J. Macktal for Disqualification of Commissioners from Further Consideration of Matters Relating to Him; Petition to Intervene in Limerick Remand Proceeding and Request for Stay of Low-Power Operation of Limerick Unit 2; and Response to Limerick Ecology Action's Motion for Reconsideration" (Public Meeting) scheduled for August 16, be held on less than one week's notice to the public.

By a vote of 4–0 on Agusut 15, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Collegial Discussion of Items of Commissioner Interest" (Public Meeting) scheduled for August 15, be held on less than one week's notice to the public.

By a vote of 4–0 on August 16, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required the "Affirmation of Morabito Request for Reconsideration" (Public Meeting) scheduled for August 16, be held on less than one week's notice to the public.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this data.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,

Office of the Secretary.

August 17, 1989

[FR Doc. 89–19867 Filed 8–18–89; 2:22 pm]

BILLING CODE 7590–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: The Pennsylvania Avenue Development Corporation announces a forthcoming meeting of the Board of Directors.

DATE: The meeting will be held Wednesday, September 27, 1989, at 10:00 a.m.

ADDRESS: The meeting will be held in the Main Lounge, National Press Club, 14th & F Streets, NW., Washington, DC.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Date: August 7, 1989.

M.J. Brodia,

Executive Director.

[FR Doc. 89–19838 Filed 8–18–89; 12:53 pm]

BILLING CODE 7630–01–M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:36 p.m. on Thursday, August 17, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), seconded by Mr. Karl T. Hoyle, acting in the place and stead of Director of M. Danny Wall (Director of the Office of Thrift Supervision), concurred in by Director C.C. Hope, Jr. (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: August 17, 1989.

Resolution Trust Corporation,

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 89–19834 Filed 8–22–89; 12:00 pm]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [54 FR 33146 August 11, 1989].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, August 8, 1989.

CHANGES IN THE MEETING: Time change/deletion.

An open meeting scheduled on Wednesday, August 16, 1989 at 10:00 a.m., was changed to Wednesday, August 16, 1989, at 9:30 a.m.

The following item was not considered at an open meeting on Wednesday, August 16, 1989, at 9:30 a.m.

Consideration of whether to issue a release for comment proposing amendments to transactional disclosure requirements to enhance shareholder analysis of corporate control transactions recommended or approved by the board of directors. Proposed amendments to Rule 13e–3 and Schedule 13E–3 would ensure that the purposes of the rule are met in all going private transactions in which management has a significant interest. The proposals also would impose a new disclosure requirement, modeled on the structure and interpretive positions of Rule 13e–3, for issuers engaged in extraordinary corporate transactions. Recommendations to reject a tender offer also would be subject to new disclosure requirements under certain circumstances. These additional disclosure requirements would be implemented by adding a new Item 703 to Regulation S–K. The Commission also will consider whether to propose amendments to Rule 14e–2 regarding the obligation of the issuer to respond promptly to revised tender offers. In addition, the Commission will consider whether to propose a procedure by which exhibits would be filed in connection with preliminary and definitive proxy materials. For further information, please contact Richard E. Baltz or Gregg Corso at (202) 272–3097.

Commissoner Fleischman, 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 postponed, please contact: John Kincaid at (202) 272–2300.

Jonathan G. Katz,

Secretary.

August 17, 1989.

[FR Doc. 89–19842 Filed 8–18–89; 8:45 am]

BILLING CODE 8010–01–M

federal register

Tuesday
August 22, 1989

Part II

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 319

Training Personnel for the Education of the Handicapped; Grants to State Educational Agencies and Institutions of Higher Education; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 319

RIN 1820-AA85

Training Personnel for the Education of the Handicapped—Grants to State Educational Agencies and Institutions of Higher Education

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Training Personnel for the Education of the Handicapped Program under Part D of the Education of the Handicapped Act (EHA), as amended. The present regulations are codified in 34 CFR Part 319. These proposed regulations are needed to implement amendments made to section 632 of the EHA by Public Law 100-630, section 104 (November 7, 1988). Section 632 authorizes grants to State educational agencies (SEAs) and institutions of higher education (IHEs). The intended effort of these proposed regulations is to clarify the statutory requirements and to improve the operation of the program.

DATE: Comments must be received on or before September 21, 1989.

ADDRESS: Comments concerning these proposed regulations should be addressed to Dr. Norman Howe, Division of Personnel Preparation, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094-M/S 2651), Washington, DC 20202. A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Dr. Norman Howe, Telephone: (202) 732-1070.

SUPPLEMENTARY INFORMATION: The Training Personnel for the Education of the Handicapped Program is authorized by sections 631 and 632 of the EHA. Section 631 creates three specific subprograms, providing for grants to (1) nonprofit organizations for parent training and information, (2) IHEs and nonprofit organizations for training personnel for careers in special education and early intervention, and (3) IHEs, nonprofit organizations, and State agencies for special projects. Section 632 provides for grants to SEAs and IHEs, for preservice and inservice personnel training.

Under section 632 as amended in 1988, the Secretary is directed to make a grant of "sufficient size and scope" to each SEA for the purpose of assisting States in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of those persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under sections 613 and 676(b)(8).

The Secretary proposes to change the basic method for the allocation of these funds. In previous years, funds under this program have been awarded based on the applicant's need and on the quality of the grant application within a narrow range of funding. This method did not take into consideration the varying personnel training needs of States based on their population of students with handicaps.

The regulations propose that States henceforth will be awarded funds based on their proportionate share of the national "annual child count", i.e, the count of students receiving a free appropriate public education required under Part B of the EHA and Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 as amended by Public Law 100-297. Limited additional funds will be awarded for quality of the application (quality incentive funds). Moreover, the 1988 amendments provide that in any State in which the SEA does not apply for such a grant, any IHE within that State may apply for that grant. If any SEA chooses not to apply for any State grant award, it must notify all IHEs within the State of this decision one month prior to the competition closing date.

The Secretary may also make a limited number of awards to SEAs on a competitive basis.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 319.20, 319.22 and 319.33 contain information collection requirements. As required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3078, Switzer Building, 330 "C" Street, SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burdens, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burden found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in the document would require

transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 319

Colleges and universities, Education, Education of handicapped, Education-training, Grant programs-education, Reporting and recordkeeping requirements, State educational agencies, Teachers.

Dated: June 12, 1989.

Lauro F. Cavazos,

Secretary of Education

(Catalog of Federal Domestic Assistance No. 84.029; Training Personnel for the Education of the Handicapped)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by revising Part 319 to read as follows:

PART 319—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED—GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

Subpart A—General

Sec.

319.1 What is the purpose of this part?
319.2 What activities may the Secretary fund?
319.3 What regulations apply to this program?
319.4 What definitions apply to this program?
319.5–319.9 [Reserved]

Subpart B—How Does One Apply for an Award?

319.10 How does an eligible applicant apply for an award?
319.11–319.19 [Reserved]

Subpart C—How Does the Secretary Make an Award?

319.20 How does the Secretary determine the amount of a State grant?
319.21 How does the Secretary make an award under the competitive grant process?
319.22 What selection criteria does the Secretary use in the State grant and competitive grant programs?
319.23–319.29 [Reserved]

Subpart D—What Conditions Must be Met After an Award?

319.30 Is student financial assistance authorized?
319.31 What are the student financial assistance criteria?
319.32 May the grantee use funds if a financially assisted student withdraws or is dismissed?
319.33–319.39 [Reserved]

Authority: 20 U.S.C. 1432 and 1434, unless otherwise noted.

Subpart A—General

§ 319.1 What is the purpose of this part?

The Secretary funds a mandatory State grant program and may conduct a competitive grant program under this part to assist States in establishing and maintaining preservice and inservice training programs that prepare personnel to meet the needs of infants, toddlers, children, and youth with handicaps or supervisors of such personnel.

(a) *State grant program.* Under the State grant program, the Secretary makes a grant to each State educational agency (SEA). If an SEA does not apply for a grant, the Secretary makes the grant to an institution of higher education (IHE) within that State.

(b) *Competitive grant program.* Under the competitive grant program, the Secretary may make grants to SEAs only (in addition to the grants awarded under the State grant program).

(Authority: 20 U.S.C. 1432)

§ 319.2 What activities may the Secretary fund?

(a) The Secretary supports preservice and inservice training programs that prepare personnel, or their supervisors, to serve infants, toddlers, children, or youth with handicaps.

(b) Any activities assisted under this part must be consistent with the personnel needs identified in the State's comprehensive system of personnel development.

(Authority: 20 U.S.C. 1432)

§ 319.3 What regulations apply to this program?

The following regulations apply to assistance under this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), Part 81 (General Education Provisions Act—Enforcement), and Part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)).

(b) The regulations in this Part 319.

(Authority: 20 U.S.C. 1433)

§ 319.4 What definitions apply to this program?

The following terms used in this part are defined in

34 CFR 77.1:

Applicant	Preschool
Application	Project
Award	Public
Department	Secretary
EDGAR	State
Fiscal year	State educational agency
Grant period	

(Authority: 20 U.S.C. 1432)

§ 319.5–319.9 [Reserved]

Subpart B—How Does One Apply for an Award?

§ 319.10 How does an eligible applicant apply for an award?

(a) Each SEA may make an application to the Secretary for a competitive grant under § 319.1(b).

(b) If an SEA elects not to apply for a State grant under § 319.1(a), IHEs within that State may apply for the grant for that State. However, only one State grant may be awarded in each State. If any SEA chooses not to apply for the State grant award, it must notify all IHEs within the State of this decision one month prior to the competition closing date.

(c) If applications are submitted by more than one IHE within a State, the Secretary uses the selection criteria in § 319.22 to evaluate the applications. An IHE that proposes to provide preservice special education and related services training must demonstrate that it meets State and professionally recognized standards for the training of special education and related services personnel, as evidenced by appropriate State and professional accreditation, unless—as indicated in a published priority of the Secretary—the grant is for the purpose of assisting the applicant to meet those standards.

(Authority: 20 U.S.C. 1432)

§ 319.11–319.19 [Reserved]

Subpart C—How Does the Secretary Make an Award?

§ 319.20 How does the Secretary determine the amount of a State grant?

(a) The Secretary determines the amount of a grant under § 319.1(a) based upon the applicant's need for assistance under this part for activities in the State comprehensive system of personnel development, as follows:

(1) The Secretary provides each SEA a minimum proportionate share of no less than 80% of the funds available under this section, based on the State's proportion of the national child count provided under Part B of the Education of the Handicapped Act (EHA) and

Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(2) However, in order to ensure that each State receives an award of sufficient size and scope, no State will receive less than $75,000.

(b) After determining a State's grant under paragraph (a) of this section, the Secretary determines annually the additional amount of funds to be awarded for the quality of the application based on the criteria set forth in § 319.22(b).

(Authority: 20 U.S.C. 1432)

§ 319.21 How does the Secretary make an award under the competitive grant process?

(a) The Secretary may make a limited number of awards to SEAs on a competitive basis for the purpose of assisting States in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of those persons, consistent with the personnel needs identified in the State comprehensive system of personnel development.

(b) In any fiscal year, the Secretary may not expend for this competitive program an amount that exceeds 10% of the amount expended under section 632 of the EHA in the preceding fiscal year.

(Authority: 20 U.S.C. 1432)

§ 319.22 What selection criteria does the Secretary use in the State grant and competitive grant programs?

(a) The Secretary uses the criteria in paragraph (b) of this section to evaluate an application for a State grant (SEA or IHE applicant) and for a competitive grant.

(b)(1) *Extent of need for the project.* (30 points) The Secretary reviews each application to determine—

(i) The extent to which the project identifies and selects priority needs from the range of personnel needs identified in the State comprehensive system of personnel development;

(ii) The extent to which the project addresses the personnel needs selected by the applicant under paragraph (b)(1)(i) of this section; and

(iii) If appropriate, how the project relates to actual and projected personnel needs for certified teachers in the State as identified by the State educational agency in its annual data report required under section 618 of the Education of the Handicapped Act.

(2) *Program content.* (20 points) The Secretary reviews each application to determine the extent to which—

(i) Competencies that will be acquired by each trainee and how the competencies will be evaluated are identified;

(ii) Substantive content of the training to be provided is appropriate for the attainment of professional knowledge and competencies that are necessary for the provision of quality educational or early intervention services to infants, toddlers, children, and youth with handicaps;

(iii) Benefits to be gained by the number of trainees expected to be graduated or otherwise to complete training and employed over the next five years are described;

(iv) Appropriate methods, procedures, techniques, and instructional media or materials will be used in the preparation of trainees who serve infants, toddlers, children, and youth with handicaps;

(v) If relevant, appropriate practicum facilities are accessible to the applicant agency and trainees and will be used for such activities as observation, participation, practice teaching, laboratory or clinical experience, internships, and other supervised experiences of adequate scope, and length;

(vi) If relevant, practicum facilities for model programs will provide state-of-the-art educational services, including use of current and innovative curriculum materials, instructional procedures, and equipment; and

(vii) Program philosophy, program objectives, and activities to be implemented to attain program objectives are related to the educational or early intervention needs of infants, toddlers, children, and youth with handicaps.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) How the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(4) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate for the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable including, but not limited to, the number of trainees graduated or otherwise to complete training and hired. (See 34 CFR 75.590 Evaluation by the grantee).

(5) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(5) (i) and (ii) of this section plans to commit to the project;

(iv) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition; and

(v) Evidence of the trainer's past experience and training in fields related to the objectives of the project.

(6) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(7) *Budget and cost-effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1432)

§ 319.23-319.29 [Reserved]

Subpart D—What Conditions Must be Met After an Award?

§ 319.30 Is student financial assistance authorized?

A grantee may use grant funds to provide traineeships or stipends. The sum of the assistance provided to a student through this part and any other assistance provided the student may not exceed the student's cost of attendance. "Cost of attendance" means—

(a) Tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental

or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(b) An allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

(c) An allowance (as determined by the institution) for room and board costs incurred by the student that—

(1) For a student without dependents residing at home with parents, is not less than $1,500;

(2) For students without dependents residing in institutionally owned or operated housing, is a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

(3) For all other students, is an allowance based on the expenses reasonably incurred by the students for room and board, except that the amount may not be less than $2,500;

(d) For less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (g) of this section);

(e) For a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(f) For a student enrolled in an academic program that normally includes a formal program of study abroad, reasonable costs associated with the study (as determined by the institution);

(g) For a student with one or more dependents, an allowance (as determined by the institution) based on the expenses reasonably incurred for dependent care based on the number and age of the dependents;

(h) For a handicapped student, an allowance (as determined by the institution) for those expenses related to his or her handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies; and

(i) For a student receiving all or part of his or her instruction by means of telecommunication technology, no distinction may be made with respect to the mode of instruction in determining costs, but this pararaph may not be construed to permit including the cost of rental or purchase of equipment.

(Authority: 20 U.S.C. 1432)

§ 319.31 What are the student financial assistance criteria?

Direct financial assistance may only be paid to students in preservice programs and only if—

(a) The student is qualified for admission to the program of study;

(b) The student maintains satisfactory progress in a course of study as provided in 34 CFR 668.16(e);

(c) The student is a citizen or a national of the United States.

(Authority: 20 U.S.C. 1432)

§ 319.32 May the grantee use funds if a financially assisted student withdraws or is dismissed?

Financial assistance awarded to a student that is unexpended because the student withdraws or is dismissed from the training program may be used for financial assistance to other students during the grant period.

(Authority: 20 U.S.C. 1432)

§ 319.33–319.39 [Reserved]

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August 22, 1989

Part III

Department of Commerce

Patent and Trademark Office

37 CFR Part 1

Deposit of Biological Materials for Patent Purposes; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 70635-9174]

RIN 0651-AA13

Deposit of Biological Materials for Patent Purposes

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent Trademark Office (Office) is amending its rules of practice in patent cases to define procedures to govern the deposit of biological materials for patent purposes. Where an invention is or relies on a biological material which cannot be described in writing alone, and access to the biological material is necessary to satisfy the statutory requirements for patentability under 35 U.S.C. 112, these rules prescribe the procedures and conditions for making a deposit that will satisfy these requirements. These rules also prescribe examining procedures that will be used to address deposit issues, and the procedures pertaining to access to a deposit once a patent is granted.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Charles E. Van Horn or Harris A. Pitlick by telephone at (703) 557-4035 or by mail marked to his attention and addressed to Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Every patent must contain a written description of the invention sufficient to enable a person skilled in the art to which the invention pertains to make and use the invention. Where the invention involves a biological material and words alone cannot sufficiently describe how to make and use the invention in a reproducible or repeatable manner, access to the biological material is necessary for the satisfaction of the statutory requirements for patentability under 35 U.S.C. 112. The rules set forth examining procedures and conditions of deposit which must be satisfied in the event a deposit is required to provide the necessary access. The rules do not address the substantive issue of whether a deposit is required under any particular set of facts.

These rules will be effective for all applications filed on or after January 1, 1990, and for all reexamination proceedings in which the request for reexamination was filed on or after January 1, 1990, except that deposits made prior to the effective date which are acceptable under current practice will be acceptable in such applications and proceedings. Since most of the provisions reflect existing policy and practice, little change to existing practice or burden on applicants for patent and patent owners relying on the deposit of biological material is anticipated. Applicants and patent owners are encouraged to comply with these rules prior to the effective date.

The final rules on the deposit of biological materials for patent purposes have evolved over several years of actual experience in administering the guidelines set forth in section 608.01(p) of the Manual of Patent Examining Procedure, including several administrative and judicial decisions, and interaction with interested public, bar and industry groups. A draft policy statement on the deposit of biological materials was circulated among interested bar and industry groups and published in the BNA-Patent, Trademark and Copyright Journal on May 22, 1986. An advance notice of proposed rulemaking setting forth rules being considered for deposit of biological material was published in the Federal Register, 52 FR 34080 (September 9, 1987), and in the *Official Gazette*, 1082 O.G. 47 (September 29, 1987). Finally, a notice of proposed rulemaking relating to the deposit of biological materials for patent purposes was published in the Federal Register, 53 FR 39420 (October 6, 1988), and in the *Official Gazette*, 1095 O.G. 47 (October 25, 1988).

In this notice of final rulemaking, a description of the changes in the text of the proposed rules is provided along with an explanation of the reasons supporting the changes. In addition, comments received in response to the notice of proposed rulemaking are analyzed. Finally, an explanation of the content of the final rules is provided, together with a compilation of relevant comments and responses that have been made during the rulemaking process. This explanation and compilation of previous comments and responses will serve as a set of guidelines that will be reproduced in the Manual of Patent Examining Procedure in due course.

Changes in Text of Proposed Rules

Several changes have been made in the text of the final rules from the text of the proposed rules which were published for comment in the notice of proposed rulemaking. Those changes are discussed below.

Section 1.200 as proposed has been renumbered as § 1.801 as adopted and the term "patent purposes" as proposed has been replaced with the term "purposes of patents for inventions under 35 U.S.C. 101" as adopted to clarify that the regulations pertaining to the deposit of biological material do not apply for purposes other than patents for inventions. Thus, these regulations are not applicable to applications for plant patents under 35 U.S.C. 161-164.

Section 1.201 as proposed has been renumbered as § 1.802 as adopted and the term "or Opportunity" in the heading thereof has been inserted after "Need" to reflect the permissive nature of a deposit when not necessary to satisfy 35 U.S.C. 112.

Paragraph (a) thereof as proposed provided that where a claimed invention is or relies on a biological material, the disclosure may include a deposit of the biological material deposited in a depository and under conditions complying with these regulations, provided a precondition was satisfied. The precondition was that the biological material not be known and readily available to the public and not be describable in writing alone. Paragraph (a) as adopted eliminates this precondition, does not require that the biological material be, or be used for, a claimed invention, does not require that the deposit be made in a depository and under conditions complying with these regulations, and more accurately states that the disclosure may include reference to a deposit, since the deposit is not physically part of the disclosure. Paragraph (a) as adopted merely provides that where an invention is, or relies on, a biological material, the disclosure may include reference to a deposit of such biological material.

Paragraph (b) of § 1.802 prescribes that biological material need not be deposited unless access to the material is necessary to satisfy 35 U.S.C. 112. If a deposit is necessary, it shall be acceptable if made in accordance with these regulations. Proposed paragraph (b) made no reference to 35 U.S.C. 112. Situations where a biological material is known and readily available to the public or can be made or isolated without undue experimentation are now listed as some, but not an exhaustive set, of the circumstances where deposit need not be made. The term "from known and readily available material" has been dropped from the end of the term "can be made or isolated without undue experimentation" as redundant. Paragraph (b) as adopted also prescribes that once deposited in a depository complying with these regulations, a biological material will be considered to be readily available even

though some requirement of law or regulation permits access only under conditions imposed for safety, public health or similar reasons. Proposed paragraph (b) did not include the condition of deposit in a depository complying with these regulations.

Proposed paragraph (c) thereof was limited to reference to a specific organism or other biological material in a specification disclosure as not creating a presumption that the material was necessary to satisfy 35 U.S.C. 112 or that a deposit thereof is required. Paragraph (c) as adopted eliminates the term "specific organism or other" as redundant and also includes the act of deposit by an applicant or patent owner as not creating a presumption that the deposit is or was required.

Section 1.202 as proposed has been renumbered as § 1.803 as adopted.

Paragraph (a) thereof as proposed prescribed that a deposit shall be made in any International Depositary Authority (IDA) or any other depository recognized as suitable by the Office. Paragraph (a) as adopted now specifies that such deposits shall be recognized for the purpose of these regulations so as not to preclude deposits made for other reasons such as a gratuitous disclosure. Paragraph (a)(2) as adopted eliminates the requirement in the proposed rule that impartial consultants be from the biotechnology industry or governmental agencies. Paragraph (a)(2) as adopted also contains new sub-subparagraph (vii) as a requirement which a suitable depository must meet, *viz.*, that it promptly notify depositors of its inability to furnish samples, and the reasons why. This requirement appeared, in essence, in proposed § 1.204(a).

Proposed paragraph (b) thereof has not been adopted. Replacement of deposits is governed solely by § 1.805, *infra*.

Proposed paragraph (c) thereof has been adopted as paragraph (b). In subparagraph (2) thereof, "(b)" has been changed to "(a)(2)" to correct an inadvertent error in the proposed rule.

Proposed paragraph (d) thereof has been adopted as paragraph (c) except that the reference to paragraph (a) has been changed to paragraph (a)(2) to more clearly delineate which category of depository is intended to be covered by this paragraph of § 1.803 and all references to other paragraphs whose designations have been changed by adoption of these rules have been changed accordingly.

Proposed paragraph (e) thereof has been adopted as paragraph (d).

Section 1.203 as proposed has been renumbered as § 1.804 as adopted.

Paragraph (a) thereof prescribed that an original deposit of a biological material may be made before filing an application for patent or, pursuant to a requirement that will be made by the examiner no later than the date the Notice of Allowance and Issue Fee Due is mailed, during pendency of the application for patent. Paragraph (a) as adopted adds a precondition to making an original deposit that the biological material be specifically identified in the application as filed. Since proposed paragraph (a) did not address original deposits made during the pendency of an application that were not made pursuant to a requirement of an examiner, the rule as adopted states that original deposits may be made during pendency of an application for patent, subject to § 1.809, *infra*, which prescribes, *inter alia*, when during the pendency of an application for patent a deposit shall be made when made pursuant to a requirement by the examiner.

Paragraph (b) thereof as proposed required a statement that, for an original deposit made after the effective filing date of an application for patent, the biological material deposited was the same biological material described in the application as filed. Paragraph (b) as adopted substitutes the word "a" for the word "the" since more than one biological material may be referred to in the application as filed, drops the word "same" and requires the statement that the biological material deposited is a biological material specifically identified in the application as filed.

Section 1.204 as proposed has been renumbered as § 1.805 as adopted and a reference to supplemental deposits has been added to the heading thereof. Paragraphs (a) and (b) of the section as proposed have been substantially rewritten as paragraphs (a), (b) and (c). New elements have been added and some eliminated, although some elements of the proposed rule on replacement deposits have been adopted, either with similar language or different language.

Elements of the proposed rule on replacement deposits which have not been adopted include a requirement that replacement deposits be made or be made within a specific time limit. Ramifications in Office proceedings from not making a replacement deposit, or in the case of a patent, not diligently making a replacement deposit, are stated.

A requirement in the proposed section that depositories promptly notify depositors of an inability to furnish samples has been adopted as § 1.803(a)(2)(vii), *supra*.

Paragraph (a) of § 1.805 requires a depositor, after receiving notice during the pendency of an application for patent, application for reissue patent or reexamination proceeding, that the depository possessing a deposit either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification, to notify the Office in writing, in each application for patent or patent affected. In such a case, or where the Office otherwise learns, during the pendency of an application for patent, application for reissue patent or reexamination proceeding, that the depository possessing a deposit either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification, the need for making a replacement or supplemental deposit will be governed by the same considerations governing the need for making an original deposit under the provisions set forth in § 1.802(b). A replacement or supplemental deposit made during the pendency of an application for patent shall not be accepted unless it meets the requirements for making an original deposit under these regulations, including the requirement set forth under § 1.804(b). A replacement or supplemental deposit made in connection with a patent, whether or not made during the pendency of an application for reissue patent or a reexamination proceeding or both, shall not be recognized by the Office unless a certificate of correction under § 1.323 is requested by the patent owner which meets the terms of paragraphs (b) and (c) of this section. The proposed rules did not provide for certificates of correction relating to replacement or supplemental deposits.

Paragraph (b) of § 1.805 prescribes that a request for certificate of correction under this section shall not be granted unless the certificate identifies the accession number for the replacement or supplemental deposit; the date of the deposit; and the name and address of the depository.

Paragraph (c) of § 1.805 prescribes that a certificate of correction under this section shall not be granted unless the request therefor is made promptly after the replacement or supplemental deposit has been made and includes a verified statement of the reason for making the replacement or supplemental deposit; a verified statement from a person in a position to corroborate the fact, and shall state, that the replacement or

supplemental deposit is of a biological material which is identical to that originally deposited; a verified showing that the patent owner acted diligently—in the case of a replacement deposit, in making the deposit after receiving notice that samples could no longer be furnished from an earlier deposit, or in the case of a supplemental deposit, in making the deposit after receiving notice that the earlier deposit had become contaminated or had lost its capability to function as described in the specification; a verified statement that the term of the replacement or supplemental deposit expires no earlier than the term of the deposit being replaced or supplemented; and otherwise establishes compliance with these regulations, except that if the person making one or more of the required statements or showing is an attorney or agent registered to practice before the Office, that statement or showing need not be verified.

Paragraph (d) of § 1.805 prescribes that a depositor's failure to replace a deposit, or in the case of a patent, to diligently replace a deposit and promptly thereafter request a certificate of correction which meets the terms of paragraphs (b) and (c) of this section, after being notified that the depository possessing the deposit cannot furnish samples thereof, shall cause the application or patent involved to be treated in any Office proceeding as if no deposit were made.

Paragraph (e) as adopted is identical to proposed paragraph (d) except that the word "the" before "patent" has been replaced with "a" because the term "the patent" had no antecedent basis, and the term "according to these regulations" has been inserted after the word "replaced" to make it clear that the rebuttable presumption according to this paragraph applies only where the replacement deposit has been made according to these regulations.

Paragraph (f) as adopted is substantially similar to proposed paragraph (e) with respect to an applicant's ability to make a replacement for any reason during the pendency of an application for patent. Paragraph (f) extends such applicant's ability to supplemental deposits as well. The first two sentences of proposed paragraph (e) prescribing when a replacement deposit shall be made while an application is still pending and that an applicant notify the Office when a replacement deposit is necessary have been adopted in § 1.805(a), *supra*.

Paragraph (g) as adopted is identical to proposed paragraph (f) except that supplemental deposits are also included and the reference to another section therein has been changed to reflect its renumbering.

Paragraph (h) as adopted is substantially similar to proposed paragraph (g) except for two changes. One is that the word "the" before "biological material" has been changed to "a" because the term "the biological material" had no antecedent basis. The other change is replacement of the term "viable deposit is in the depository" with the term "depository can furnish samples thereof". The term "in the depository" was not clear. The word "viable" before "deposit" would have excluded biological materials not capable of reproduction either directly or indirectly. For biological materials which are so capable of reproduction, samples of viable deposits thereof which become non-viable cannot be furnished by the depository.

Paragraph (i) as adopted modifies paragraph (h) as proposed. Whereas the proposed rule proscribed a patentee from replacing a viable deposit where the depository can furnish samples, the rule as adopted states that the Office will not recognize in any Office proceeding a replacement deposit of a biological material made by a patent owner where the depository could furnish samples of the deposit being replaced.

Section 1.205 as proposed has been renumbered as § 1.806 as adopted. The proposed rule had set the term of deposit as, *inter alia*, at least thirty years after the date of a viable deposit. The rule as adopted sets the thirty-year term to begin after a deposit, before or during pendency of an application for patent, is made. The term of a deposit made by a patent owner is not prescribed. However, § 1.805(a), *supra*, prescribes that a replacement or supplemental deposit made in connection with a patent will not be recognized in any Office proceeding unless a certificate of correction under § 1.323 is requested by the patent owner which meets the terms of paragraphs (b) and (c) of § 1.805, one of which terms is a verified statement by the patent owner that the term of the new deposit expires no earlier than the term of the deposit being replaced or supplemented. An additional change in the rule as adopted is the replacement of the term "deposited biological material" with the word "deposit" since the former term had no antecedent basis.

Section 1.206 as proposed has been renumbered as § 1.807 as adopted. The rule as adopted is identical to the rule as proposed except for the reference to a rule which has been renumbered.

Section 1.207 as proposed has been renumbered as § 1.808 as adopted.

In paragraph (a) thereof, first word, "The" as proposed has been replaced with "A" because "The" had no antecedent basis.

In view of the non-adoption of proposed § 1.207(c), *infra*, paragraph (a)(2) as adopted refers to only paragraph (b), not paragraphs (b) and (c).

Paragraph (b)(1) as proposed permitted a depositor to require, *inter alia*, that a depository furnish samples only if a request for a sample is in writing and signed. Paragraph (b) as adopted permits a depositor to require a request to be in writing or other tangible form. The signing requirement, however, has not been adopted.

Paragraph (b)(3) as proposed permitted a depositor to require, *inter alia*, that a depository furnish the depositor with a copy of the request. This requirement has not been adopted.

Paragraph (c) as proposed has not been adopted.

Paragraph (d) as proposed, with one change, has been adopted as paragraph (c). The change is the insertion of the term "made to the Office" after the term "Upon request" to make it clear that certification imposes no burden on a depository.

Section 1.208 as proposed has been renumbered as § 1.809 as adopted.

The term "required" when referring to "deposit" in proposed paragraphs (a), (b) and (c) thereof has been changed to "needed" as adopted for purposes of consistency with § 1.802. The term "in case one has not been made, or" as proposed in paragraph (a) has been replaced with "and if needed," as adopted for purposes of clarification. The statement as proposed that a deposit accepted in any acceptable depository under § 1.202(a) shall be accepted for patent purposes if made under conditions complying with § 1.207(a) has not been adopted. The statement is redundant in view of the provision in § 1.802(b) as adopted that a deposit necessary for the satisfaction of 35 U.S.C. 112 shall be acceptable if made in accordance with these regulations. Since the question of deposits may come up in reissue applications and reexamination proceedings as well as in applications for patents, paragraph (a) as adopted covers examination of all such applications and proceedings. Paragraph (a) as adopted also refers to supplemental deposits since issues of the need for a supplemental deposit may arise where a deposit has lost its capability to function as described in the specification. Paragraph (a) as proposed prescribed that affected claims would be rejected in an Office action.

Paragraph (a) as adopted drops "in an Office action" and instead prescribes that the claims would be rejected "where appropriate."

Paragraph (b)(1) as proposed was limited to applicants. Paragraph (b)(1) as adopted covers applicants for patents and patent owners involved in specified Office proceedings. The provision for applicants for patents in paragraph (b)(1) as adopted is identical to the provision for applicants in paragraph (b)(1) as proposed except for the additional adoption of a reference to supplemental deposits. Paragraph (b)(1) as adopted additionally provides for patent owners responding to a rejection under paragraph (a) of this section by requesting a certificate of correction of the patent which meets the terms of paragraphs (b) and (c) of § 1.805.

Paragraph (b)(2) as proposed has not been adopted. Subparagraph (3) has therefore been renumbered as (2) and the reference therein to paragraph (b)(2) has been eliminated. Two additions have been made. One, since the question of deposit may come up in connection with a reissue application or reexamination proceeding, the term "or patent" has been inserted after "application" in the first sentence. Two, since paragraph (a) provides for a rejection under 35 U.S.C. 112 when a deposit actually made cannot be accepted, it is considered an appropriate response that a deposit actually made should be accepted. Thus, the term "and/or why a deposit actually made should be accepted" has been inserted at the end of the first sentence of paragraph (b)(2) as adopted.

Paragraph (c) as proposed has been adopted except that the term "for patent" has been inserted after "application" in the first sentence to make it clear that this paragraph does not apply to other applications, such as applications for reissues. Additionally, the word "the" before the proposed term "required deposit" has been changed to "a" because the term "the required deposit" had no antecedent basis. Finally, the term "37 CFR" preceding "1.136" in the proposed rule has been replaced with "§" as adopted to be consistent with standard nomenclature.

Paragraph (d)(3) as proposed required a taxonomic description of the deposit. Paragraph (d)(3) as adopted requires a description of the deposited biological material sufficient to specifically identify it and to permit examination. Paragraphs (d)(1), (d)(2), (d)(3) and (d)(4) have otherwise been adopted except for the addition of prefatory articles "The" or "A".

Response to and Analysis of Comments

Written comments from sixteen (16) sources were received in response to the notice of proposed rulemaking. Some suggestions made in comments have been adopted as presented or in modified form and others have not been adopted. A detailed analysis of the comments follows.

Comment: The proposed rule numbers, except § 1.200, are the same as those of the old interference rules, and it appears to be Office practice to normally avoid using rule numbers which end in "00," especially for a rule, viz., § 1.200, which is the first of a group of rules. The rules, if adopted, should have different numbers.

Response: The suggestion has been adopted. Proposed §§ 1.200 through 1.208 have renumbered as §§ 1.801 through 1.809 as adopted, respectively.

Comment: Two comments ask whether the rules will apply retroactively. One comment suggests that they should and further, that the benefits provided for depositors in proposed § 1.207 (b) and (c) take effect immediately so that those patent applicants who would benefit from them will be encouraged not to delay in filing or obtaining a patent until a final rule takes effect.

Response: To the extent the rules codify existing office practice, they are already effective. Otherwise, the rules will be effective in applications for patent or for reissue of patent filed on or after January 1, 1990, and in reexamination proceedings in which the request for reexamination was filed on or after January 1, 1990, except that deposits made prior to the effective date which are acceptable under current practice will be acceptable in such application and proceedings. Applicants and patent owners are encouraged to comply now with those requirements of the rules not required by existing Office practice.

Comment: A sentence should be added at the end of proposed § 1.200 to clarify that the rule does not preclude the possibility of depositing other biological materials for patent purposes, such as plants *per se*, even though not within the scope of the term "biological material" as defined by the rule. Adding such a sentence would be consistent with previous concerns expressed to the Office over the possible requirement for deposits with respect to plant patents. With the added sentence, the rule would not address any kind of requirement for deposit in plant patents.

Response: In a response to a comment in the notice of proposed rulemaking, it was stated that the Office did not intend to propose rules on deposits under the Plant Patent Act (35 U.S.C. 161–164) at this time, nor will the Office take the position that a deposit is required under the present provisions of 35 U.S.C. 162. The text of the rule adopted in § 1.801 is the same as proposed in § 1.200 except that the rule now explicity states that the regulations are for purposes of patents for inventions under 35 U.S.C. 101. Thus, these regulations do not and are not intended to address the question of deposits in plant patent applications.

Comment: One comment suggests that the language in § 1.200 should be expanded to make it clear that other biological materials, such as plants *per se*, are not precluded from being deposited. Another comment assumes that the Office intends to limit the scope of "biological material" as defined by this rule. The rules and commentary should indicate that the scope and effect of the rules are limited to biological materials as defined in the rules. This rule is acceptable provided it simply defines what constitutes biological material.

Response: None of the suggestions have been adopted. In a response to a comment in the notice of proposed rulemaking, it was stated that biological material is defined in the proposed rule in terms of a non-exhaustive list of what it includes and that no materials were explicitly excluded. The response also stated that the Office does not contemplate that there would be many situations where a material that is not capable of self-replication either directly or indirectly would be acceptable as a deposit under these regulations but that an applicant was not precluded in any given case from attempting to show why such a material should be acceptable. Plants *per se* are an example of such materials.

Comment: The proposed rules do not, but should, address a problem associated with marine sponges and other marine macroorganisms. These materials and their natural location can be adequately described so that one skilled in the art could obtain them using the necessary equipment. But their taxonomy is in a developmental stage and scientific names are subject to revision. Deposit and maintenance of these materials in viable form is not practical. They can and have been deposited in non-viable form, preserved or fixated in a suitable non-destructive medium, where their shelf life is expected to be at least 30 years.

Response: See the response to the previous comment. As stated in a response to a comment in the advance notice of proposed rulemaking, the PTO

Board of Patent Appeals and Interferences held that a description of the precise geographic location of marine tunicates used in a claimed invention was adequate to satisfy the enablement requirement of 35 U.S.C. 112. *Ex Parte Rinehart*, 10 USPQ2d 1719 (PTO Bd. Pat. App. & Int. 1985). It was also stated in that response that the term "readily" as used in the term "known and readily available" appearing in the proposed rules is considered appropriate to define that degree of availability which would be reasonable under the circumstances. Since the comment states that the subject materials and their natural location can be adequately described so that one skilled in the art could obtain them using the necessary equipment, the disclosure would appear to be sufficient to meet the enablement requirements of 35 U.S.C. 112 without a deposit so long as their degree of availability is reasonable under the circumstances.

Comment: In a response to a comment in the notice of proposed rulemaking which was in response to a solicitation for comments in the advance notice of proposed rulemaking on the setting of an appropriate minimum number of seeds to ensure availability of the seed through the enforceable life of the patent, it was stated that the Office does not intend to propose rules quantifying a minimum number of seeds but that the Office will consider 2500 to be a minimum number in the normal case and will provide an applicant an opportunity to provide justification why a lesser number would be suitable under the circumstances of a particular case. One comment suggests that 2500 may present problems where the normal yield of a plant is only a few seeds. A more reasonable minimum is 1250. Another comment suggests that there be no minimum number but an obligation on the part of the depositor to replace a seed each time one is requested.

Response: Since the Office has stated that an applicant will be provided an opportunity to show why a lesser amount than 2500 seeds would be appropriate in a particular case, the policy of requiring a minimum number of 2500 is adhered to. An obligation on the part of the depositor to replace a seed each time one is requested is simply impractical.

Comment: The title of proposed § 1.201 should be changed from "Need to make a deposit" to "Opportunity to make a deposit" since the provision states that "the disclosure *may* include a deposit of a biological material * * *."

Response: The suggestion has been adopted in part. Since § 1.802 applies to situations both when a deposit may be made (optional) and when a deposit is necessary, the heading of the rule states both need and opportunity in the alternative.

Comment: Proposed § 1.201(a) should state that the disclosure may include reference to a deposit, rather than that the disclosure may include a deposit.

Response: The suggestion has been adopted in § 1.802(a).

Comment: Proposed § 1.201(a) does not clearly permit deposits where conditions enumerated therein do not apply. The proposed rule should be revised by eliminating the requirement that the biological material not be known and readily available to the public before a deposit may be made. The proposed revision would make clear that an applicant has a universal and unconditional right to make a deposit of a biological material whenever the biological material cannot be described in writing alone, regardless of whether the material is known and readily available. The rule as proposed is not consistent with the permissive use of deposits where they might not be mandated. The proposed revision would dispel any suggestion or implication that the legal standard under which deposits are mandated is that the biological material be neither known nor readily available. Obviously, such materials even if unknown and not readily available might be enabled solely through a written description, rendering deposit unnecessary.

Response: The suggestion has been adopted in § 1.802(a). In addition, the rule as adopted permits deposits even where the biological material can be described in writing alone and even where the claimed invention is not, or does not rely on, the biological material. Section 1.802(a) as adopted permits reference in the disclosure to a deposit of a biological material, the only precondition being that an invention is or relies on that material. The requirement in the proposed rule that the biological material not be known and readily available to the public and not be describable in writing alone, and that the material be, or be used for, the claimed invention, has not been adopted.

Comment: Two comments suggest that § 1.201(a) refer to 35 U.S.C. 112. One comment suggests that § 1.201(a) should make some reference to 35 U.S.C. 112 for completeness. Another comment suggests that proposed § 1.201(a) contains no standard and should thus make reference to 35 U.S.C. 112, for example, by inserting words to the effect that the biological material cannot be described in writing alone to satisfy the requirements of 35 U.S.C. 112.

Response: The suggestions have not been adopted. *But see* the response to the next comment.

Comment: Proposed § 1.201(b) should be revised by stating that biological material need not be deposited unless necessary for the satisfaction of the statutory requirements of 35 U.S.C. 112. Thus, the rule would state that the ultimate reason for a requirement for a deposit would be to satisfy 35 U.S.C. 112. Further, the rule should state one circumstance, among others, where a biological material need not be deposited, *viz.*, where it is known and readily available to the public or can be made or isolated without undue experimentation. The last sentence of proposed § 1.201(b) should state a precondition that a deposit of the biological material be made in a depository complying with these regulations.

Response: The suggestions have been adopted in § 1.802(b).

Comment: Proposed § 1.201(c) should be revised by stating that the actual deposit of a biological material referred to in a specification disclosure also does not create a presumption that the material is necessary to satisfy 35 U.S.C. 112 or that the deposit is or was required. The proposed revision would recognize that the act of deposit does not and should not constitute an admission by the applicant that the deposit was made because it was necessary to satisfy 35 U.S.C. 112. For example, deposit may be necessary in the United States prior to the time a patent application is filed in order for an applicant to be entitled to assert a priority right under patent laws of a foreign country based on a United States application which makes reference to such deposit. Additionally, applicants ought to be encouraged to make deposits in questionable cases without such act being construed as an admission of any sort.

Response: The suggestion has been adopted in § 1.803(c).

Comment: The term "or other biological material" in proposed § 1.201(c) should be changed to "or any other biological material" to make sure that all biological materials that would normally be considered for deposits are included.

Response: The comment is not understood. Nevertheless, it is moot. The term "specific organism or other biological material" in proposed § 1.201(c) has been changed to "biological material" in § 1.802(c) as adopted.

Comment: Two comments suggest that proposed § 1.202(a)(2) unnecessarily

limits who may be consulted in determining the suitability of a depository to be recognized by the Office to those in the biotechnology industry or Government agencies. Views from academia may be wanted. One of the comments suggests, therefore, that the term "from the biotechnology industry or governmental agencies" be deleted from § 1.202(a)(2).

Response: The suggestions have been adopted in § 1.803(a)(2).

Comment: Proposed § 1.202(a) should be revised to state that a deposit shall be recognized for the purposes of these regulations if made in a depository according to subparagraph (1) or (2) thereof. The proposed revision would allow for deposits other than in Office-recognized depositories, but give deposits in Office-recognized depositories the "safe harbor" advantages of these regulations.

Response: The suggestion has been adopted in § 1.803(a). Simply put, the rules do not prohibit deposits made under any conceivable conditions. The Office will treat a deposit not made according to these regulations, however, as if no deposit had been made.

Comment: The provision set forth in proposed § 1.202(c)(3), i.e., that a depository seeking status under paragraph (a)(2) indicate that it intends to be available, for the purposes of deposit, to any depositor under these same conditions, should also be listed in § 1.202(a)(2), which enumerates the qualifications for a depository seeking recognition as suitable by the Office.

Response: The suggestion is not being adopted. The requirement in proposed § 1.202(a)(2)(v), and § 1.803(a)(2)(v) as adopted, that the depository be impartial and objective, is inclusive of a requirement that it be available, for purposes of deposit, to any depositor under these same conditions.

Comment: One comment suggests that the proposed rules do not adequately define the term "depositor". It could be the inventor, the assignee, one to whom the inventor has an obligation to assign, or the individual who signs the deposit form. In the case of joint inventors with different institutional ties, who is the depositor? Assuming that where the inventor is a university professor, the depositor is the university, deposit in that university's depository would be precluded by proposed § 1.202(a)(2)(ii) and possibly § 1.202(a)(2)(v). An exception should be made for non-profit organizations. They should be allowed to "self-deposit" since it is highly improbably that they would refuse to provide samples to third parties. The availability of a strain from a university was found to satisfy 35 U.S.C. 112 in *Merck and Co., Inc.* v. *Chase Chemical Co.*, 273 F.Supp. 68, 77, 92, 155 USPQ 139, 146, 159 (D.N.J. 1967). Another comment suggests that it is not clear, where the depositor is a separate, independent division of a particular entity and the depository is another separate, independent division of the same entity, whether this arrangement meets the terms of proposed § 1.202(a)(2)(ii).

Response: None of the suggestions have been adopted. In § 1.803(a)(2)(ii) as adopted, a depository recognized to be suitable by the Office and not otherwise an IDA must exist independent of the control of the depositor. In a response to a comment in the notice of proposed rulemaking, it was stated that the term "depositor" is intended to include the party on whose behalf the deposit is made. It was further stated in that response that the rationale of the Office in requiring that a depository, if not an IDA, be independent of the depositor was adequately discussed in the advance notice of proposed rulemaking. The advance notice stated:

> The concept of an independent depository of an IDA as an acceptable depository is based on the need and desire to ensure the safe and reliable storage of a deposited biological material under circumstances that are free of the opportunity for intentional or negligent handling of the deposited material. The use of an independent depository or an internationally recognized depository will tend to preserve the integrity of the deposit process against those that may accidentally alter the deposited material, may wish to tamper with the deposited material or may wish to resume control of its availability when the patent is no longer enforceable, and to preserve the interest of the public in the free access to the biological material for any purpose once the term of the patent expires. Further, while the PTO is constrained to approve independent depositories other than an IDA, the PTO has neither the resources nor capability to assess the individual capability of any party that wishes to act as its own depository. The rules under consideration are intended to minimize depositories that will be found acceptable.

The above discussion applies to non-profit organizations as well as for-profit organizations. Moreover, it is clear from the discussion above that the scope of the term "depositor" is limited only by the requirement that the depositor have no control over the depository. Such a relationship is not necessarily inconsistent with one where there is some legal relationship between depositor and depository. The *Merck* case cited above does not stand for the proposition that a university is necessarily an acceptable depository because it makes available samples of a biological material. In *Merck*, the availability of the biological material from the university was evidence that the biological material was known and readily available. While a deposit by an applicant in a depository under the applicant's control will not be recognized by the Office as a deposit under these regulations, an applicant is not precluded from showing that the deposited material, by virtue of conditions of public knowledge of unrestricted availability of samples of the deposit, is known and readily available to the public. However, depositors should be aware that relying on such a showing rather than making a deposit according to these regulations involves a risk that the biological material might in the future not be readily available. The university relied on in the *Merck* case, for example, eventually ceased its practice of making biological materials readily available.

Comment: Proposed § 1.202(b) is intended to apply in the event that a depository ceases to enjoy the status of a recognized depository. The manner of making a substitute deposit in such a situation would not seem to be fully explained by a reference to proposed § 1.204. For example, if a depository were to cease operation, it might not be able to, in the words of proposed § 1.204(a), "promptly after having noted its inability to furnish samples, notify the depositor of such inability". Second, the rule as proposed is difficult to follow. For example, it indicates that a substitute deposit "must be viable if the biological material is of a kind capable of self-replication". The implication that certain deposits might be non-viable is at best confusing in the absence of a definition for viability.

Response: Proposed § 1.202(b) has not been adopted. Section 1.805, the rule as adopted on replacement deposits, puts the burden exclusively on the applicant or patent owner, whatever the case may be, to both make a replacement deposit and make the necessary showing that such a deposit complies with these regulations. Viability is dealt with exclusively by § 1.807 as adopted.

Comment: Three comments suggest that it be a requirement of the rules that the biological material have been in existence at the time of filing the patent application. One comment suggests that a sentence be added to proposed § 1.208(a) to require that the application as filed state that the biological material is in existence. The other comments suggest that proposed § 1.203 require an averment that the deposited biological material was in existence at the time the application was filed.

Response: None of the suggestions have been adopted. Patent law does not

require an actual reduction to practice as a condition precedent to filing a patent application. While few, if any, situations can be imagined where the description requirement of 35 U.S.C. 112 can be satisfied where the biological material was not in existence at the time of filing, the rules do not preclude such a situation. *But see* the response to the next comment.

Comment: Proposed § 1.203(a) should require that a biological material may be deposited only if an adequate antecedent basis exists in the specification as filed, i.e., the biological material to be deposited must be specifically identified therein.

Response: The suggestion has been adopted in § 1.804(a). It must be clear from the application as filed that the invention claimed and described in the specification "was fully capable of being reduced to practice (i.e., no technological problems, the resolution of which would require more than ordinary skill and reasonable time, remained in order to obtain an operative, useful process)." *Feldman* v. *Aunstrup*, 517 F.2d 1351, 1355, 186 USPQ 108, 113 (CCPA 1975), *cert. denied*, 424 U.S. 912 (1976). *Accord*, *In re Lundak*, 773 F.2d 1216, 1221, 227 USPQ 90, 94 (Fed. Cir. 1985).

Comment: Two comments suggest that proposed § 1.203(a) be revised so that it addresses the permissible situation where a deposit is made during the pendency of an application for patent not pursuant to a requirement made by an examiner.

Response: The suggestion has been substantially adopted in § 1.804(a). An original deposit may be made, subject to § 1.809, during pendency of the application for patent. Where § 1.809 does not apply, i.e., where a deposit is ultimately not required, a deposit may be made at anytime during pendency.

Comment: The Office should discuss in the commentary accompanying the notice of proposed § 1.203(b) as a final rule the meaning and intent behind the requirement that the deposited biological material be the "same" as the material described in the specification. For example, does the Office contemplate that the statement constitute a representation that the deposited material is in essentially the same form as was in existence at the time of the filing of the patent specification, and, accordingly as specifically described therein?

Response: Proposed § 1.203(b) has been adopted as § 1.804(b) but with the word "same" deleted and the term "described" replaced with "specifically identified." Under § 1.804(b), the biological material deposited must be a biological material specifically identified in the application as filed.

Comment: One comment asks whether a patent which is defective because of the lack of a deposit can be rectified by making the deposit in connection with a reissue application. Another comment points out that the issue of post-grant original deposits is not addressed by these regulations and the Office is urged to comment to this effect in the final promulgation of the rules.

Response: It is assumed from the comment that a deposit was necessary at the time the patent was issued. A patent defective because of lack of a necessary deposit is necessarily fatally defective for failure to comply with the first paragraph of 35 U.S.C. 112. Reissue is not available in such cases. *See In re Hay*, 534 F.2d 917, 189 USPQ 790 (CCPA), *cert. denied*, 429 U.S. 977 (1976). Whether reissue is available where a biological material necessary for compliance with 35 U.S.C. 112 was known and readily available at the time of issuance of the patent and subsequently ceased to be readily available is not addressed by this response. Nor do the rules address the question of post-issue original deposits, whether necessary or not to comply with the patent statutes.

Comment: Many comments were received regarding proposed § 1.204 and the subject of replacement deposits. One comment suggests that the time limits in proposed § 1.204(a) for making replacement deposits, specifically as they apply post-grant, are totally arbitrary. For example, a replacement deposit made four months after notice from the depository, without a suitable petition for extension of time, could not be relied on. A number of comments suggest that in proposed § 1.204(a), it is not clear who is required to petition whom in order to obtain an extension of time in which to make a replacement deposit. A depository is not equipped to deal with the legalities of such matters. If the petition is filed with the Office, there will be administrative burdens. Another comment suggests that instead of specified time limits and petitions for extensions of time, the rule should state that where a patentee makes a replacement deposit, the patentee shall promptly request a certificate of correction identifying the particulars of the replacement deposit and that no such certificate of correction shall be granted unless the request includes, *inter alia*, a verified showing that the patentee acted diligently in making the replacement deposit. A certificate of correction in providing the particulars of the new deposit (depository and accession number) would provide the simplest and most straightforward vehicle under which the patentee could assure continuing public notice (and accordingly public access) to particular biological materials described in the specification. Corrections to the issued patent would be made subject to all conditions of these deposit regulations and an additional specific requirement that the replacement deposit be made diligently after the notification is received that samples cannot be furnished from the deposit. This generalized requirement of diligence is preferable to the more rigid and cumbersome procedures set forth in the rules as proposed.

Response: The provisions of a three-month time limit for making a replacement deposit and petitioning for extensions of time to extend the limit in proposed § 1.204(a) applied by their terms only to patentees or patent owners. These provisions have not been adopted. Except in reexamination and reissue applications, it is beyond the rulemaking authority of the Office to regulate issued patents. Thus, instead of requiring patent owners to make replacement, or supplemental, deposits and to make them within a specified time, or to require them to request certificates of correction, paragraphs (a), (b) and (c) of § 1.805 as adopted specify that a replacement or supplemental deposit made in connection with a patent, whether or not made during the pendency of an application for reissue patent or a reexamination proceeding or both, shall not be recognized in any Office proceeding unless the patent owner requests a certificate of correction under § 1.323 provided certain specified conditions are met, including that the patent owner acted diligently in making the replacement or supplemental deposit and promptly thereafter requested the certificate of correction.

Comment: The rules should indicate that replacement deposits made during the pendency of an application will be treated in exactly the same way as any other deposit made after the filing date.

Response: The suggestion has been essentially adopted in § 1.805(a) which states, *inter alia*, that a replacement or supplemental deposit made in connection with an application for patent shall be accepted if it meets the requirements for making an original deposit under these regulations, including the requirement set forth under § 1.804(b)

Comment: The rules should address a situation where the deposit is of a non-viable biological material, such as a marine sponge or other marine

macroorganism. Filling requests for samples can ultimately consume the entire deposit. Two other comments suggest that a depositor be permitted to charge the requesting party a fee sufficient to cover the cost of replacing the deposit. A competitor could "drain off" the store of deposit and thereby require replacement at significant economic hardship to the depositor.

Response: Where the biological material deposited is capable of self-replication either directly or indirectly, exhaustion of the deposit would appear to be highly unlikely. Regardless of the type of biological material deposited, however, the depositor must assure that samples thereof be available beyond the enforceable life of any patent relying on the material.

Comment: Nothing in the regulations which define the suitability of a depository requires that the depository itself must provide notice to depositors in the event of an inability to furnish samples yet proposed § 1.204(a) does.

Response: The suggestion has been adopted in § 1.803(a)(2)(vii).

Comment: A number of comments suggest that the legal ramifications of an additional deposit made pursuant to proposed § 1.204(h), i.e., made where an earlier deposit has become contaminated or has lost its capability to function as described in the specification, are not clear. Some of the same comments go on to suggest that the deposit provided for in § 1.204(h) be termed a "supplemental" deposit rather than an "additional" deposit to emphasize the relationship between it and the earlier deposit, that such a deposit have the same legal effect as the earlier deposit provided the patent holder provides a verified statement that it is identical to the earlier deposit, and that it have the same accession number as the earlier deposit, perhaps with a suffix modification. One comment suggests that the rules require that a deposit under paragraph (h) be assigned the same accession number but with an appropriate suffix. A depository commentator asks that where a deposit under paragraph (h) is made, which deposit—the earlier or the later one—should be made available to the public. Currently, this deposit advises a requesting party that there are two deposits.

Response: The suggestion of replacing the term "additional" with the term "supplemental" has been adopted but in a somewhat different setting. Whereas proposed § 1.204(h) stated that nothing in the regulations was intended to prohibit a patentee from making an additional deposit, paragraphs (a), (b), (c), (f) and (g) of § 1.805 as adopted provide for patent owners as well as patent applicants making supplemental deposits of a biological material earlier deposited from which a depository can still furnish samples. These paragraphs provide for supplemental deposits similar to the provisions in these paragraphs for replacement deposits, including the requirement of showing diligence in making the deposit in connection with a patent, except that instead of making the deposit after receiving notice that samples could no longer be furnished from an earlier deposit, as in the case of a replacement deposit, the deposit is made after receiving notice that the earlier deposit had become contaminated or had lost its capability to function as described in the specification. While the rules specify that the Office in any Office proceeding will recognize supplemental deposits if made under certain conditions, it is not known what legal effect a court will give to such recognition. As far as what accession number a depository should give to a supplemental deposit, this is a matter within the discretion of the depository. As to which deposit, either an earlier deposit or a supplemental deposit, should be made available to the public, this would depend on the accession number requested. A supplemental deposit made according to these regulations would be freely available to the public to the same extent as an original deposit made according to these regulations. Obviously, nothing in these regulations prohibits a depository from advising a requesting party that there is more than one deposit of a particular biological material.

Comment: To the extent proposed § 1.204 regulates the effects on patents, in other than certain statutorily defined situations such as reexamination and reissue, for failure to make replacement deposits according to the rule, it exceeds the rulemaking authority of the Office. An example is proposed § 1.204(c).

Response: Section 1.805 as adopted, to the extent it addresses replacement deposits made by patent owners, contains no affirmative provisions requiring or prohibiting replacement deposits. Rather, it prescribes what an applicant or patent owner may do vis-a-vis the Office if a replacement deposit is made and what the ramifications are in any Office proceeding if a replacement deposit is not made or improperly made. Proposed § 1.204(c) was, and § 1.805(d) as adopted is, limited to Office proceedings. The provision that a patentee may not replace a viable deposit where the depository can furnish samples in proposed § 1.204(h) has been replaced in § 1.805(i) as adopted with the provision that the Office will not recognize in any Office proceeding a replacement deposit made by a patent owner where the depository could furnish samples of the deposit being replaced.

Comment: One comment suggests that the term of deposit in proposed § 1.205 is excessive. The term should be through the expiration of the patent plus 10 years. Another comment suggests that § 1.205 be adopted except that the last sentence should be deleted and the term "viable" before "deposit" be dropped. The term "viable" should be deleted as viability is dealt with elsewhere, e.g., proposed § 1.206. The last sentence should be deleted because, while the Office may set what it considers adequate terms of deposit on or before patent grant, it has no statutory authority or mechanism for supervising the term of the agreement of the deposit. The last sentence is also highly indefinite in failing to indicate how far beyond the enforceable life of a patent the deposit must be maintained.

Response: The suggestions have been adopted in part. Proposed § 1.205, including the last sentence, has been adopted as § 1.806 except that the thirty-year term applies to any deposit made before or during pendency of an application for patent. No requirement of viability is stated in the rule. The Office agrees that once a patent issues, it has no authority or mechanism for supervising the term of the agreement of the deposit. But the Office does have the authority to set the term of deposit while an application is still pending. That is all § 1.806 does. In almost all cases, the term of deposit as set forth in the first sentence of § 1.806 will extend beyond the enforceable life of the patent for which a deposit was made. The last sentence of § 1.806 is intended to cover those rare circumstances where extended prosecution in the Office results in expiration of the term of deposit as set forth in the first sentence while the patent is still enforceable. At this time, there appears to be no need to specify any finite time period beyond the enforceable life of a patent. If experience demonstrates that the public interest is not being served by the present provisions, an appropriate amendment will be proposed.

Comment: A depository commentator suggests that the requirement in proposed § 1.207(b)(1) that a request for a sample of the deposited material be signed poses an administrative burden on depositories which accept telephone, telex and electronic mail requests for samples. Requiring that a request be signed can and will delay the receipt of

samples by many days. The signing requirement should not be adopted.

Response: The suggestion has been adopted in § 1.808(b)(1).

Comment: A depository commentator suggests that the requirement in proposed § 1.207(b)(3) that a copy of the request be provided to the depositor poses a problem since most requests also include a request for samples of many other deposited biological materials. For such a request, it would be necessary to send a copy to each depositor, blanking out the other deposits not made by that depositor. It should be sufficient that the depositor is notified to whom and the date a sample was provided. The cost will be much greater if a copy has to be supplied.

Response: The suggestion has been adopted in § 1.808(b)(3).

Comment: A depository commentator suggests that in proposed § 1.207(b), it is not clear, after the term of the patent, whether the deposit is again restricted as it was before the patent was granted, i.e., not furnished unless the requesting party has the proper authorization from the depositor or the Commissioner, or whether the deposit is no longer subject to subparagraphs (1), (2) and (3) thereof and can be furnished without any specific identification or notification. It is suggested that either a statement be added as to what happens after the term of the patent or the term "during the term of the patent" be deleted.

Response: The suggestions have not been adopted. Section 1.808(a)(2) requires that subject to paragraph (b) thereof, all restrictions imposed by the depositor or the availability to the public of the deposited material will be irrevocably removed upon the granting of the patent. Paragraph (b), by its terms, is limited to the term of the patent. A contract between a depositor and a depository according to paragraph (b) but which extends beyond the term of the patent would violate paragraph (a)(2). It should be self-evident that for deposits in compliance with these regulations, samples of the deposit may be furnished without any specific identification or notification for requests made after the term of the patent.

Comment: While many comments suggest adoption of a rule restricting the transfer of a sample of a deposited material to a third party without the depositor's permission, such as proposed § 1.207(c), as well as the adoption of a rule requiring other restrictions on access to deposited material, two comments suggest that such rules not be adopted. The rationale is that if a deposit is basically a replacement for that which could not be adequately written in the patent specification itself, no specific statutory authority exists for restricting access to the deposited material any more than the patent law would countenance restrictions on access to the written description itself. If abuses exist by virtue of the absence of limitations on access to deposited materials, then the remedy for patent infringement is as applicable to deposited material as it is to infringers acting from knowledge of the written description itself. Accordingly, unrestricted access to deposits should be allowed. One of the comments suggests further that if there are to be some restrictions to access, proposed § 1.207(c) is otherwise problematic and ineffective. For example, the limitation on access applies to "derived" materials which could include wholly noninfringing derivatives which might themselves constitute a patentable invention of a third party requester. The proposed rule would deny the third party requester the right to what ought to be an unrestricted right to sell or otherwise dispose of this derivative material to third parties. Moreover, the proposed rule is remediless since the Office neither has continuing jurisdiction over the patentee nor a third party requester. Two depository commentators expressed reservations about proposed § 1.207(c). One suggests that the first sentence therein is in direct contradiction to the long-standing policies of both NRRL and ATCC. Most depositories no longer require this type of guarantee from requesting parties as they find it almost impossible to enforce. The other suggests that the administrative burden to the depository in handling agreements made pursuant to the proposed rule will be great and the cost will be borne by the depositor. At $10 an agreement and 300 requests a year for a particular deposit, the cost to the depositor would be $3,000 a year. If § 1.207(c) is adopted, there should be some mention that if a depository charges a fee for this service, the fee must be paid or the depository will not be obligated to provide the service. In the European Patent Office (EPO), which has a similar provision, the EPO, not the depository, obtains the agreement and advises the depository to make the sample available. The comment asks if the Office is prepared to do this. Additional comments ask what rules govern a new deposit for patent purposes of the same or derived biological material by a requesting party if the substance of proposed § 1.207(c) is adopted. Some comments were in response to a solicitation in the notice of proposed rulemaking for alternative approaches and suggestions for an appropriate definition of "essential characteristics" with respect to derived material in proposed § 1.207(c).

Response: The Office has decided not to adopt a rule permitting a depositor to require that a sample of a deposited biological material shall be furnished only if the requesting party has agreed not to make the material or a derivative thereof available to a third party without the depositor's permission. Thus, proposed § 1.207(c) has not been adopted. The Office agrees with many of the comments about shortcomings in the proposed rule. Fundamentally, however, the proposed rule has not been adopted in view of the rationale stated in the comment that no greater restriction on access to a deposit should be permitted than is permitted on access to the written description itself, even considering that the practical value of access to a deposit may be substantially greater than access to the written description and that infringement may be more difficult to police. While it might be argued that the adoption of proposed § 1.207(b) with revisions as § 1.808(b) is inconsistent with this rationale, the Office believes that permitting the depositor to require a requesting party, in essence, to identify itself is not unreasonable under the circumstances and is consistent with international practice as embodied in the Budapest Treaty.

Comment: Many comments which suggest the adoption of the substance of proposed § 1.207(c) also suggest the adoption of rules incorporating the recommendations made in the April 8, 1987 World Intellectual Property Organization (WIPO) report on the Industrial Property Protection of Biotechnological Inventions (1) to use the biological material only for experimental purposes concerning the invention, and (2) not to export the biological material except to a country for which a relevant patent has been granted. The reasons generally given were that it is necessary to protect the patentee and enhance the patentee's ability to enforce a patent relying on a deposited material. One comment suggests that incorporating the recommendation on experimental use would clarify what is permitted by law. In the Notice of Proposed Rulemaking, 53 FR at 39423–24, the Office described the difficulties in drafting a regulation incorporating these recommendations and requested specific suggestions as to how to draft a regulation which both accomplishes the intended purpose and is not inconsistent with law. No specific suggestions were received, although one comment suggests that where a deposited material is covered by an

unexpired U.S. patent, a rule be adopted permitting the depositor to require the requesting party to agree to comply with the provisions of 35 U.S.C. 271. Another comment suggests that legislation is necessary to deal with the problems addressed by the WIPO recommendations. A restriction against exports could be considered to be violative of 35 U.S.C. 112 since foreign requesters would be denied access to deposits where a patentee had never sought foreign patent protection. A restriction to experimental purposes only, while more justifiable, raises two problems. One is that "experimental purposes" have not been defined and the term has been open to several interpretations. The other is that the proper redress for non-experimental use is a suit for patent infringement, not a suit based on the requester's promise to the depository. The comment suggests that a rule be adopted permitting the depositor to require that a requesting party acknowledge that the furnishing of a sample of the deposited biological material does not constitute a license, express or implied, to use that sample for any purpose.

Response: None of the suggestions have been adopted for essentially the same rationale discussed in the response to the previous comment. None suggest how to draft a regulation which both accomplishes the intended purpose and is not inconsistent with law, and which provides a compelling justification and rationale for departing from present policy and practice. The suggestion that a requesting party agree to comply with 35 U.S.C. 271 as a condition precedent to obtaining a sample of deposited biological material is interpreted as an agreement not to infringe a corresponding valid patent, something which a requesting party is already bound not to do under law. The suggestion that a depositor be permitted to require a requesting party to acknowledge that there is no express or implied license to use a sample for any purpose exceeds the rulemaking authority of the Office since certain unlicensed uses of patented subject matter have been found by the courts to be permissible.

Comment: Many of the comments suggesting adoption of the substance of § 1.207(c) and/or the WIPO recommendations on experimental use and export also suggest adoption of rules permitting additional restrictions. One comment suggests requiring the recipient of biological material to report, at least annually, to the patent holder, on the research and other results obtained by use of the biological material. The same commentator suggests that even after patent expiration, an unlicensed recipient should not be permitted to use the biological material for other than experimental purposes absent agreement from the depositor. The commentator would prohibit commercial use of the biological material without permission of the depositor. Another comment suggests that the policy consideration for permitting deposits is to insure that the patented invention can be practiced after patent expiration. Requiring a requesting party to enter into an agreement with the depositor defining the terms and conditions under which a sample of the deposited material would be used, making an accounting of such use, and proof of compliance, is neither unreasonable nor contrary to law. It would not place an administrative burden on the Office since the depository could be permitted to release samples only if the requesting party signs a license. Any attempt by the depositor to impose an unlawful restriction and withhold release would be a matter for the courts, not the Office. Another comment suggests various additional restricitons be adopted. These are (1) that the requesting party have residence in the U.S. or in the country where the depository is located, if different; (2) that the patentee be given the option to restrict furnishing of samples to independent experts only for the duration of the patent; and (3) that the deposit be released only if the depositor expressly consents (in the absence of which validity of the patent must be resolved without recourse to the deposit). Restriction (1) should be adopted so that the deposit cannot be legally exported to a country where the patent owner has no enforceable rights. Restriction (2) should be adopted to prevent access of the deposited material to potential infringers. Its adoption should be coupled with a statement that a deposit released to an expert shall be regarded as being available to the public. Restriction (3) should be adopted as an extension to the description in proposed § 1.201 that the disclosure "may include a deposit." In other words, the patentee at any time during the patent term should be able to rely on the written description alone for satisfying 35 U.S.C. 112, such as where the reasons for requiring a deposit originally no longer exist.

Response: None of the suggestions have been adopted for essentially the same reasons discussed in the responses to the previous two comments.

Comment: A depository commentator suggests that proposed § 1.207(d) needs further deliberation. Now, publication in a U.S. patent of a deposit and accession number is sufficient for that depository (ATCC) to make samples available. The Office should be prepared to receive several thousand requests for certification under § 1.207(d) if adopted. If the Office is going to certify the availability of deposits, it should certify the availability of all deposits. Easier than the proposed rule would be to include a statement in the patent that there is a deposit, its accession number and where it is deposited, and that it has been made under the condition that it is available upon publication of the issued patent.

Response: The suggestion has not been adopted. The comment appears to be interpreting the term "Upon request" at the beginning of proposed § 1.207(d) to mean "Upon request to a depository for a sample of a deposited material", or in other words, the commentator appears to have interpreted the proposed language as requiring the depository to request certification from the Office each time a request for a sample of a deposit is made. It was not intended to impose such a burden on depositories. Rather, it was intended that the term "Upon request" refer to a request made to the Office. Therefore, proposed § 1.207(d), revised by inserting the term "made to the Office" after "Upon request", has been adopted as § 1.808(c).

Comment: One comment suggests that there is no apparent reason for the use of the different words "[e]stablishing" and "[a]rguing", in proposed paragraphs (b)(2) and (b)(3), respectively, of § 1.208 since the same meaning is intended by each. Either word alone should be used in both subparagraphs (2) and (3). The same comment goes on to suggest that the reference to paragraph (b)(2) in the last sentence of proposed § 1.208(b)(3) is redundant since the examiner may be convinced that a deposit is not required where the applicant has established that the involved biological material is known and readily available to the public. A comment along the same lines suggests that paragraph (b)(2) is unnecessary. As a purely logical matter, an applicant ought to be entitled to reply to a rejection either by making an acceptable deposit or arguing why a deposit is not required under the circumstances. Proposed § 1.208(b)(2) is merely one possibility for an argument that a deposit is not required.

Response: The suggestions have been adopted. Proposed § 1.208(b)(2) has not been adopted and proposed § 1.208(b)(3) has been substantially adopted as § 1.809(b)(2). In addition, § 1.809(b)(2)

provides for examination with respect to a patent, since deposit issues may arise in connection with a reissue application and/or a reexamination proceeding, and provides also for an argument that a deposit actually made should be accepted.

Comment: A number of comments suggest that the term "taxonomic description" in proposed § 1.208(d)(3) is unclear and inappropriate in some cases. One comment suggests that it is not clear how complete a description is required. If construed in its broadest sense, it could have the undesirable effect of delaying filing of an application until taxonomic characteristics have been determined. Some biological materials within the scope of the proposed rules, such as plasmids, are not susceptible of taxonomic description. The requirement that the specification contain a taxonomic description should not be adopted since such a description may not be possible and since the availability of a deposit makes such a description superfluous, since the taxonomy is inherent in the deposit. The response to comments made earlier regarding the taxonomic description requirement is inconsistent with the proposed rule. The response states that the extent to which a taxonomic description is required will depend on the facts of the case yet the proposed rule states that the specification shall contain such a description. The response states that the taxonomic description must be sufficient for purposes of 35 U.S.C. 112 yet the requirement of a deposit presupposes that a written description alone will not satisfy the statute. The need to verify that the deposited biological material is that disclosed in the specification arises only when the deposit is made after the filing date. That situation can be dealt with by deleting the taxonomic description requirement from § 1.208(d) and adding a new subparagraph (e) which would provide that in cases where a deposit is made after the filing date and where the nature of the material permits, a taxonomic description is required in addition to the items specified in subparagraph (d). Another comment suggests that the term "taxonomic" be deleted since it is irrelevant to many types of deposits and would provide greater clarity to the rules. Another comment suggests that the current language in proposed § 1.208(d)(3) be replaced with "Fully identify and describe the deposited material".

Response: The suggestions have been adopted in part. Section 1.809(d)(3) as adopted requires a description of the deposited biological material sufficient to specifically identify it and to permit examination. While the rule does not by its terms require a taxonomic description, such a description should satisfy the rule as adopted in cases where the biological material deposited admits of a taxonomic description.

Comment: The Office should petition the Budapest Assembly to address the same issues dealt with in the proposed rules so that they apply to both U.S. and foreign filings. Uniformity in the rules is important, especially for U.S. inventors who file here and abroad.

Response: While uniformity in both U.S. and foreign rules is desirable, this is not deemed to be the appropriate forum in which to address the suggestion.

Discussion of Specific Sections

Biological Material (Section 1.801)

The section indicates that the rules pertaining to deposits for purposes of patents for inventions under 35 U.S.C. 101 are intended to relate to biological material. For the purposes of these rules, the term "biological material" is defined in terms of a non-exhaustive list of representative materials which can be deposited in accordance with the procedures defined in these rules. Since these rules are intended to address procedural matters in the deposit of biological material for patent purposes, and are not designed to decide such substantive issues such as whether a deposit of a particular organism or material would be recognized or needed to be made for the purposes of satisfying the statutory requirements for patentability under 35 U.S.C. 112, the definition provided in this section is intended to be permissive—specifically defining materials which can be deposited.

Biological material includes material that is capable of self-replication either directly or indirectly. Direct self-replication includes those situations where the biological material reproduces by itself. Representative examples of materials capable of self-replication are defined in the rule. Indirect self-replication is meant to include those situations where the biological material is only capable of replication when another self-replicating biological material is present. Self-replication after insertion in a host is one example of indirect self-replication. Examples of indirect replicating biological materials include viruses, phages, plasmids, symbionts, and replication defective cells. The list of representative examples of each type of replicating material includes viruses to demonstrate that the lists are not intended to be mutually exclusive.

Although plant material is included within the scope of the definition of biological material for purposes of patents for inventions under 35 U.S.C. 101, these rules on deposits are not applicable to applications filed under the Plant Patent Act (35 U.S.C. 161–164). The Office is of the view that a deposit is not required under the present provisions of 35 U.S.C. 162. Thus, no plant patent granted under the provisions of 35 U.S.C. 161–164 need be supported by a deposit. As with other biological material deposited for purposes of patents for inventions under 35 U.S.C. 101, the deposit of plant material together with the written specification must enable those skilled in the art to make and use the claimed invention.

As with some types of reproducible biological material, seeds can be reproduced only after a growing season which may be relatively long. Although the rules do not specify a specific number of seeds to be deposited to meet the requirements of these rules, the Office will consider 2500 to be a minimum number in the normal case, but will give an applicant the opportunity to provide justification why a lesser number would be suitable under the circumstances of a particular case. The Department of Agriculture requires a deposit of 2500 seeds for the grant of a Plant Variety Protection Certificate. As the reproduction of seeds will often take a substantial period of time, the Office will require, at a minimum, a number of seeds that is likely to satisfy demand for samples once the patent is granted.

Section 1.801 does not attempt to identify what biological material either needs to be or may be deposited to comply with the requirements of 35 U.S.C. 112. For the most part, this issue must be addressed on a case-by-case basis. Thus, while the Office does not presently contemplate that there would be any situations where a material that is not capable of self-replication either directly or indirectly would be acceptable as a deposit, an applicant is clearly not precluded in any given application, by these rules, from attempting to show why the deposit of such a material should be acceptable to satisfy the requirements of 35 U.S.C. 112.

Need or Opportunity to Make a Deposit (Section 1.802)

This section permits a deposit of a biological material to be referenced in a patent application where an invention is, or relies on, a biological material. The invention may rely on a biological

material for the purposes of making or using the invention, either as a preferred mode or an alternative mode of operation. It is not necessary, for the purposes of paragraph (a), that a deposit be required to satisfy the requirements of 35 U.S.C. 112 before a reference to a deposit is permitted in the specification.

There is no necessary implication or presumption that can or should be made about the need for a deposit simply because reference to a deposit is made in an application disclosure. As noted in paragraph (b), biological material need not be deposited unless access to such material is necessary for the satisfaction of the statutory requirements for patentability under 35 U.S.C. 112 and that access is not otherwise available in the absence of a deposit. Where a deposit is required to provide the necessary access, a deposit is acceptable for patent purposes only where it is made in accordance with these regulations. Even where access to biological material is required to satisfy these statutory requirements, a deposit may not be necessary if access sufficient to satisfy these requirements is otherwise available.

For example, applicant could show that the biological material is known and readily available to the public. The concepts of "known and readily available" are considered to reflect a level of public accessibility to a necessary component of an invention disclosure that is consistent with an ability to make and use the invention. To avoid the need for a deposit on this basis, the biological material must be both known and readily available—neither concept alone is sufficient. A material may be known in the sense that its existence has been published, but is not available to those who wish to obtain that particular known biological material. Likewise, a biological material may be available in the sense that those having possession of it would make it available upon request, but no one has been informed of its existence.

By showing that a biological material is known and readily available or by making a deposit in accordance with these rules, applicant does not guarantee that such biological material will be available forever. Public access during the term of the patent may affect the enforceability of the patent. Although there is a public interest in the availability of a deposited biological material during and after the period of enforceability of the patent, the examiner need not be unduly concerned about continued access to the public. Unless there is a reasonable basis to believe that the biological material will cease to be available during the life of the patent, the examiner should accept current availability as satisfying the requirement. The incentives provided by the patent system should not be constrained by the mere possibility that a disclosure that was once enabling would become non-enabling over a period of time through no fault of the patentee. *In re Metcalfe*, 410 F.2d 1378, 161 USPQ 789 (CCPA 1969).

There are many factors that may be used as indicia that a biological material is known and readily available to the public. Relevant factors include commercial availability, references to the biological material in printed publications, declarations of accessibility by those working in the field, evidence of predictable isolation techniques, or an existing deposit made in accordance with these rules. Each factor may or may not be sufficient alone to demonstrate that the biological material is known and readily available. Those applicants that rely on evidence of accessibility other than a deposit take the risk that the patent may no longer be enforceable if the biological material necessary to satisfy the requirements of 35 U.S.C. 112 ceases to become accessible.

The Office will accept commercial availability as evidence that a biological material is known and readily available only when the evidence is clear and convincing that the public has access to the material. A product could be commercially available but only at a price that effectively eliminates accessibility to those desiring to obtain a sample. The relationship between an applicant relying on a biological material and the commercial supplier relied upon is one factor that would be considered in determining whether the biological material was known and readily available. However, the mere fact that the biological material was available only through the patent holder or the patent holder's agents or assigns shall not, by itself, justify a finding that the necessary material is not readily available, absent reason to believe that access to the biological material would later be improperly restricted.

The mere reference to a deposit or the biological material itself in any document or publication does not necessarily mean that the deposited biological material is readily available. Even a deposit made under the Budapest Treaty and referenced in a United States or foreign patent document would not necessarily meet the test for known and readily available unless the deposit was made under conditions which are consistent with those specified in these rules, including the one that requires, with one possible exception, that all restrictions on the accessibility will be irrevocably removed upon the granting of the patent.

Applicant may show that a deposit is not necessary even though specific biological materials are required to practice the invention if those biological materials can be made or isolated without undue experimentation. Deposits may be required to support the claims if an isolation procedure requires undue experimentation to obtain the desired biological material. *Ex Parte Jackson*, 217 USPQ 804 (PTO Bd. Pat. App. 1982) No deposit is required, however, where the required biological materials can be obtained from publicly available material with only routine experimentation and a reliable screening test. *Tabuchi* v. *Nubel*, 559 F.2d 1183, 194 USPQ 521 (CCPA 1977); *Ex Parte Hata*, 6 USPQ 2d 1652 (PTO Bd. Pat. App. & Int. 1987).

Once a deposit is made in a depository complying with these rules, and under conditions complying with these rules, a biological material will be considered to be readily available even though some requirement of law or regulation in the United States or in the country where the depository institution is located permits access to the material only under conditions imposed for health, safety or similar reasons. This provision is consistent with the Budapest Treaty (Article 5) and is designed to permit the patenting of inventions involving materials having restricted distribution, where the restrictions are imposed for the public, as opposed to the private, welfare.

Paragraph (c) specifically provides that the mere reference to a deposit of biological material in the specification disclosure or the actual deposit of such material does not create any presumption that such referenced or deposited material is necessary to satisfy 35 U.S.C. 112, or that a deposit in accordance with these regulations is or was required. Since reference to a biological material cannot be added to a specification disclosure after filing an application without risking the prohibited introduction of new matter (35 U.S.C. 132), applicants must be permitted to address the need to make a deposit in accordance with these regulations without jeopardizing a filing date. Thus, the examiner has the burden of showing that a deposit is required to satisfy 35 U.S.C. 112, and cannot rely on whether a deposit has been made or has been referenced in the specification disclosure to establish a *prima facie*

case that the disclosure does not comply with 35 U.S.C. 112 without a deposit.

Acceptable Depository (Section 1.803)

This section indicates that a depository will be recognized as acceptable for the purposes of these regulations if it is either an International Depositary Authority (IDA) established under the Budapest Treaty, or if it is a depository recognized as suitable by the Commissioner. After the effective date of these regulations, a deposit of biological material which is made in a depository which is not recognized as acceptable under this regulation will not be considered as satisfying the requirements of 35 U.S.C. 112. On the other hand, if a deposit is not required to satisfy the requirements of 35 U.S.C. 112, it is permissible to make reference to such a deposit even though it may not be in a depository or made under the conditions which are acceptable under these regulations. As new depositories are accepted under the Budapest Treaty or are recognized as suitable by the Commissioner, their identity will be announced in the Official Gazette.

An organization may be recognized as suitable by the Office if the procedure and conditions specified in paragraphs (a)(2) and (b) are followed. Generally, it is not the intention of the Office to recognize as suitable any organization where the need for a suitable depository for patent purposes is being met by depositories recognized as IDAs under the Budapest Treaty. Suitability will be judged by the Commissioner, based on need and the information supplied by the organization seeking status, and information obtained from other sources that may be consulted.

While there is a desire to provide flexibility to a patent applicant in selecting an appropriate depository, these rules are not intended to permit each patent applicant to become its own depository since both the patent owner and the public have an interest in the continued availability and accessibility of the deposit during the enforceable life of the patent, and the public has a continuing interest in its availability when the patent is no longer enforceable. The concept of a depository independent of the control of the depositor or an IDA as an acceptable depository is based on the need and desire to ensure the safe and reliable storage of a deposited biological material under circumstances that are substantially free of the opportunity for intentional or negligent handling of the deposited material. The use of an independent depository or internationally recognized depository will tend to preserve the integrity of the deposit process against those that may accidentally alter the deposited material, may wish to tamper with the deposited material or may wish to resume control of its availability when the patent is no longer enforceable, and to preserve the interest of the public in the access to the biological material once the term of the patent expires.

When a depository having status under paragraph (a)(2) of this regulation seeks to change the kinds of biological materials that it will accept and maintain for the purposes of these rules, a communication requesting such a change should be directed to the Commissioner containing the information requested in paragraph (b). When such a change is requested, the requesting organization should provide a complete list of the kinds of biological materials it will accept.

Paragraph (d) of this section indicates that once a depository is recognized as suitable for the purposes of this rule, or has defaulted or discontinued its performance under this section, notice thereof will be published in the Official Gazette of the Patent and Trademark Office. A current list of IDAs recognized under the Budapest Treaty is as follows:

Agricultural Research Culture Collection (NRRL)—USA
American Type Culture Collection (ATCC)—USA
Australian Government Analytical Laboratories (AGAL)—Australia
Centraalbureau Voor Schimmelcultures (CBS)—Netherlands
Collection Nationale De Culture De Micro-organismes (CNCM)—France
Commonwealth Agriculturial Bureau (CAB), International Mycological Institute—United Kingdom
Culture Collection of Algae and Protozoa (CCAP)—United Kingdom
Deutsche Sammlung Von Mikroorganismen (DSM)—Federal Republic of Germany
European Collection of Animal Cell Cultures (ECACC)—United Kingdom
Fermentation Research Institute (FRI)—Japan
Institute of Micro-organism Biochemistry and Physiology of the USSR Academy of Science (IBRM)—Soviet Union
In Vitro International, Inc. (IVI)—USA
Mezogazdasagi Es Ipari Mikroorganizmusok Magyar Nemzeti Gyujtemenye (MIMNG)—Hungary
National Bank for Industrial Microorganisms and Cell Cultures (NBIMCC)—Bulgaria
National Collection of Industrial Bacteria (NCIB)—United Kingdom
National Collection of Type Cultures (NCTC)—United Kingdom
National Collection of Yeast Cultures (NCYC)—United Kingdom
USSR Research Institute for Antibiotics of the USSR Ministry of the Medical and Microbiological Industry (VNIIAA)—Soviet Union
USSR Research Institute for Genetics and Industrial Microorganism Breeding of the USSR Ministry of the Medical and Microbiological Industry (VNII Genetika)—Soviet Union

Time of Making an Original Deposit (Section 1.804)

This section specifies the time for making an original deposit to fulfill the requirements of 35 U.S.C. 112. Paragraph (a) specifies not only a permissible time frame for making an original deposit, but also specifies that the biological material deposited must be specifically identified in the application for patent as filed. The requirement for a specific identification is consistent with the description requirement of the first paragraph of 35 U.S.C. 112, and to provide an antecedent basis for the biological material which either has been or will be deposited before the patent is granted.

The description in the Lundak application as filed (now patent 4,594,325) provides a suitable illustration of the specific identification and description which is required in an application for patent as filed. In that application, an immortal B-cell line was disclosed and claimed. The cell line was referred to in the application as filed as WI–L2–729 HF2. The methods of obtaining and using this cell line were also described in the application as filed. A deposit of the cell line was made with the American Type Culture Collection (ATCC) about a week after the application was filed in the United States. The United States Court of Appeals for the Federal Circuit held that the requirements of access by the Office to a sample of the cell line during pendency, and public access after grant, were met by Lundak's procedures. The Court further held that the addition of information designating the depository, accession number, and deposit date of the deposited cell line in ATCC after the filing date did not violate the prohibition against new matter in 35 U.S.C. 132. *In re Lundak*, 773 F.2d 1216, 227 USPQ 90 (Fed. Cir. 1985). It must be clear from the application as filed that the invention claimed and described in the specification "was fully capable of being reduced to practice (i.e., no technological problems, the resolution of which would require more than ordinary skill and reasonable time, remained in order to obtain an operative, useful

process)." *Feldman* v. *Aunstrup*, 517 F.2d 1351, 1355, 186 USPQ 108, 113 (CCPA 1975), *cert. denied*, 424 U.S. 912 (1976).

When the original deposit is made after the effective filing date of an application for patent, applicant is required to promptly submit a verified statement from a person in a position to corroborate that the biological material which is deposited is a biological material specifically identified in the application (the filing date of which is relied upon) as filed. The nature of this corroboration will depend on the circumstances in the particular application under consideration, including the length of time between the application filing date and the date of deposit. While few, if any, situations can be imagined where the description requirement of 35 U.S.C. 112 can be satisfied where the biological material was not in existence at the time of filing, the rules do not preclude such a situation. There is no requirment in the patent law that an actual reduction to practice occur as a condition precedent to filing a patent application. The requirement for a verified statement is not necessary under paragraph (b) of this section if the person making the statement is an attorney or agent registered to practice before the Office.

For the purposes of complying with the requirements of 35 U.S.C. 112, a deposit of a biological material may be made at any time before filing the application for patent or during the pendency of the application subject to the conditions of § 1.809. Where the deposit is needed to satisfy the requirement of 35 U.S.C. 112 and is made during the pendency of the application, it must be made no later than the time period set by the examiner at the time the Notice of Allowance and Issue Fee Due is mailed. A necessary deposit need not be made by applicant until the application is in condition for allowance so long as applicant provides a written assurance that an acceptable deposit will be made on or before the payment of the issue fee. This written assurance must provide sufficiently detailed information to convince the examiner that there is no outstanding issue regarding deposits that needs to be resolved.

Those applicants intending to file patent applications in a country foreign to the United States relying upon biological material that must be deposited to satisfy the requirements of 35 U.S.C. 112 when the application is filed in the United States are cautioned that in many countries the deposit must be made before the filing date of the priority application in order to obtain foreign priority rights. Thus, while the deposit of a biological material subsequent to the effective filing date of a United States application is sufficient to comply with 35 U.S.C. 112, an applicant may not be able to rely on the filing date of such a U.S. application if a patent is sought in a country foreign to the United States.

Replacement or Supplement of Deposit (Section 1.805)

This section relates to the deposit of a biological material to replace or supplement a previous deposit. The term "replacement" is directed to those situations where one deposit is being substituted for another. An applicant may have greater latitude in replacing a deposit during the pendency of an application than after the patent is granted. Replacement will typically take place where the earlier deposit is no longer viable. The term "supplement" is directed to those situations where the earlier deposit is still viable in the sense that it is alive and capable of replication either directly or indirectly, but has lost a quality (e.g., purity, functionality) it allegedly possessed at the time the application was filed. The procedures in these rules contemplate that only the original depositor would have a right to replace or supplement the original deposit.

Paragraph (a) relates to the procedure for replacing or supplementing a deposit with respect to a pending application or a patent. An applicant for patent or patent owner whose patent is the subject of a reissue application or reexamination proceeding is required to notify the Office when it obtains information that the depository possessing a deposit either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capabilty to function as described in the specification. When the Office is so notified or otherwise becomes aware of such information, the need for making a replacement or supplemental deposit will be determined by the same considerations used to determine the need for an original deposit under § 1.802(b).

A replacement or supplemental deposit made in connection with a pending application for patent will be accepted if it meets all the requirements for making an original deposit. It should be noted that for a pending application for patent, applicant need not replace or supplement the identical material previously deposited, but may make an original deposit of a biological material which is specifically identified and described in the application as filed. Whether this alternative deposit will meet the requirements of 35 U.S.C. 112 with respect to the claimed subject matter must be resolved by the examiner on a case-by-case basis.

A replacement or supplemental deposit made in connection with a patent, whether or not it is the subject of a pending reissue application or reexamination proceeding, shall not be recognized in any Office proceeding unless a certificate of correction under § 1.323 is requested by the patent owner which meets the terms of paragraphs (b) and (c) of this section. These paragraphs specify the procedures that a patent owner must follow to ensure both that a replacement or supplemental deposit will be recognized in any Office proceeding and that a certificate of correction under this section containing "up to date" information about a deposited biological material will be granted. The term "recognized in any Office proceeding" as used in this section includes the proceeding in which a request for certificate of correction under this section is acted upon. Paragraph (b) describes the information which must be contained in the certificate of correction, whereas paragraph (c) describes when the request must be made and the information which must be provided in the request to make the correction. The rules require, *inter alia*, that replacement or supplement of a deposit be made diligently, followed by prompt request thereafter for a certificate of correction, as conditions precedent to being recognized in any Office proceeding. Thus, for example, if a patent owner learns early during the term of the patent that the depository cannot furnish samples of a deposit described in the patent and the patent owner fails to both diligently make a replacement deposit and promptly thereafter request a certificate of correction under these rules, a replacement deposit made years later when the patent becomes the subject of a reissue application or reexamination proceeding will not be recognized by the Office nor will any request for certificate of correction in connection with that deposit be granted.

Where a proper request for certificate of correction is made and has been granted, any correction made to the original patent will be automatically incorporated into any reissued or reexamined patent unless changes are made during examination of the reissue application or reexamination proceeding.

Paragraph (d) of § 1.805 sets forth the Office position that the failure to make a

replacement deposit or, in the case of a patent, diligently make a replacement deposit and promptly thereafter request a certificate of correction which meets the terms of paragraphs (b) and (c) of this section, after notification that samples of an earlier deposit cannot be furnished, shall cause the application or patent involved to be treated in any Office proceeding as if no deposit were made.

Paragraph (e) thereof indicates that the Office will apply a rebuttable presumption of an identity between the replacement deposit and an original deposit where a patent making reference to the deposit is relied on during any Office proceeding. This means that where a replacement deposit is permitted and made, the examiner will assume that the same material as described in the patent is accessible from the identified depository unless evidence to the contrary comes to the attention of the Office.

An applicant for patent may make a replacement or supplemental deposit during the pendency of the application for any reason. The provisions of paragraph (f) of § 1.805 recognize that since an original deposit may be made during the pendency of the application subject to the conditions of § 1.809, a replacement or supplemental deposit logically cannot be held to any higher standard or any further requirements. Likewise, the provisions of paragraph (g) indicate that neither a replacement nor a supplemental deposit need be made where, at the point in time when replacement or supplement would otherwise be necessary, access to the necessary biological material was otherwise available. For example, a replacement or supplemental deposit would not be required under the circumstances where access to the necessary biological material was established through commercial suppliers.

The provisions of paragraph (h) of § 1.805 indicate that a replacement deposit is not required even though the depository cannot furnish samples, under certain conditions, to those requesting a sample outside of the jurisdiction where the depository is located. The conditions are specified in this paragraph as being limited to national security, health or environmental safety reasons.

Finally, paragraph (i) of this section indicates that the Office will not recognize in any Office proceeding a replacement deposit made by the patent owner where the depository could furnish samples of the deposit being replaced. The best evidence of what was originally deposited should not be lost through destruction or replacement if made in association with an existing patent. A supplemental deposit may be accepted in an Office proceeding, however, depending on the circumstances in each case.

Term of Deposit (Section 1.806)

The term of deposit must satisfy the requirements of the Budapest Treaty which sets a term of at least 30 years from the date of deposit and at least five (5) years after the most recent request for the furnishing of a sample of the deposit was received by the depository. In the event that the 30-year term covers the 17-year term of the patent plus six (6) years to include the Statute of Limitations, no further requirement is necessary. The mere possibility of patent term extension or extended litigation involving the patent should not be considered in this analysis.

In the event that the 30-year term of deposit measured from the date of deposit would necessarily terminate within the period of enforceability of the patent (normally the 17-year term plus six (6) years), samples must be stored under agreements that would make them available beyond the enforceable life of the patent for which the deposit was made. No requirement should be made as to any particular period of time beyond the enforceable life of the patent. The purpose of the requirement is to insure that a deposited biological material necessary for the practice of a patented invention would be available to the public after expiration of the patent for which the deposit was made. The term of the deposit must comply with the requirements of each sentence of § 1.806 whether or not the deposit is made under the Budapest Treaty. A specific statement that the deposit complies with the second sentence of this section is required only where the 30-year term would terminate within the enforceable life of the patent.

Viability of Deposits (Section 1.807)

This section requires that the deposit of biological material that is capable of self-replication either directly or indirectly must be viable at the time of deposit and during the term of deposit. This requirement for viability is essentially a requirement that the deposited material is capable of reproduction. For the purpose of making a deposit under these rules, there is no requirement that evidence be provided that the deposited material is capable or has the ability to perform any function described in the patent application. However, as with any other issue of description or enablement, if the examiner has evidence or reason to question the objective statements made in the patent application, applicants may be required to demonstrate that the deposited biological material will perform in the manner described.

Under the Budapest Treaty, there is a requirement that the deposit be tested for viability before it is accepted. Thus, a mere statement by applicant, an authorized representative of applicant or the assignee that the deposit has been accepted under the Budapest Treaty would satisfy § 1.807.

For each deposit which is not made under the Budapest Treaty, a viability statement must be filed in the patent application and contain the information listed in paragraph (b) of this section. Under paragraph (c), the examiner will accept the conclusion set forth in a viability statement which is issued by a depository recognized under § 1.803(a). If the viability test indicates that the deposit is not viable upon receipt, or the examiner cannot for scientific or other valid reasons accept the statement of viability received from the applicant, the examiner shall so notify the applicant stating the reasons for not accepting the statement and proceed with the examination process as if no deposit had been made.

Furnishing of Samples (Section 1.808)

This section requires that the deposit of biological material be made under two (2) conditions:

(1) Access to the deposit will be available during pendency of the patent application making reference to the deposit to one determined by the Commissioner to be entitled thereto under § 1.14 and 35 U.S.C. 122, and

(2) With one exception, that all restrictions imposed by the depositor on the availability to the public of the deposited biological material will be irrevocably removed upon the granting of the patent.

The one exception that is permitted is specified in paragraph (b) of this section which permits the depositor to contract with the depository to require that samples of a deposited biological material shall be furnished only if a request for a sample, during the term of the patent meets any one or all of the three conditions specified in this paragraph. These conditions are:

(1) The request is in writing or other tangible form and dated; and/or

(2) The request contains the name and address of the requesting party and the accession number of the deposit; and/or

(3) The request is communicated in writing by the depository to the depositor along with the date on which the sample was furnished and the name

and address of the party to whom the sample was furnished.

It should be noted that this exception to the general rule that all restrictions will be removed must be strictly followed and that no variations of this explicit exception will be accepted as meeting the conditions of this section. This exception is consistent with the provisions in the Budapest Treaty and its implementing regulations (Rule 11.4).

Since the mere description of a deposit or identity of a deposit in a patent specification is not necessarily an indication that a requirement for deposit was made or that a deposit which complies with these rules has been made, accessibility to a deposited material referenced in a patent may depend on the satisfaction of conditions not apparent on the face of the patent. For these reasons, and upon request made to the Patent and Trademark Office, the Office will certify whether a deposit has been stated to have been made under conditions which would make it available to the public as of the issue date of the patent grant provided the request is made to the Director of Patent Examining Group 180, and contains the following information:

(1) The name and address of the depository

(2) The accession number given to the deposit

(3) The patent number and issue date of the patent referring to the deposit and

(4) The name and address of the requesting party.

For those deposits made pursuant to the Budapest Treaty, the World Intellectual Property Organization provides a form (Form BP-12) for requesting a certification of the availability of samples of deposited microorganisms pursuant to Rule 11.3(a) of the regulations under the Budapest Treaty. Copies of this form are available from the Director of Patent Examining Group 180.

Examination Procedures (Section 1.809)

This section sets forth procedures that will be used by the examiner to address a deposit issue. Deposit issues may arise in the examination of claims in applications for patent and for reissue of a patent, and in the examination of new or amended claims in a reexamination proceeding. The burden is initially on the Office to establish that access to a biological material is necessary for the satisfaction of the statutory requirements for patentability under 35 U.S.C. 112. Once the Office has met this burden, the burden shifts to the applicant or patent owner to demonstrate that access to such biological material either is not necessary or is already available, or that a deposit of such material is being or will be made, replaced or supplemented in accordance with these regulations.

Under paragraph (a) of this section, once the examiner has determined that access to a biological material is necessary, and that access is not presently available in accordance with these regulations, the examiner should make an appropriate rejection under 35 U.S. 112.

The applicant or patent owner may respond, pursuant to paragraph (b)(2) of this section, to a rejection made under paragraph (a) thereof by arguing why a deposit is not needed under the circumstances and/or why a deposit actually made should be acceptable. Other prescribed responses which are available to such a rejection depend upon whether the rejection is made in an application for patent, on the one hand, or in a proceeding involving a patent, i.e., an application for reissue patent or reexamination proceeding, on the other hand.

In an application for patent, applicant may respond, pursuant to paragraph (b)(1) of this section, by either making an acceptable original, replacement or supplemental deposit in accordance with these regulations, or assuring the Office in writing that an acceptable deposit will be made on or before the date of payment of the issue fee. In a proceeding involving a patent, the patent owner may respond, pursuant to paragraph (b)(1) of this section, by requesting a certificate of correction of the patent which meets the terms of paragraphs (b) and (c) of § 1.805. In all cases, any other response shall be considered non-responsive. The rejection will be repeated and made final until the requirements of paragraph (b)(1) of this section are satisfied or the examiner is convinced that a deposit is not required for the claimed subject matter.

As set forth in paragraph (c) of this section, in the event that an application for patent is otherwise in condition for allowance except for a needed deposit and the Office has received a written assurance that an acceptable deposit will be made, the Office will mail to the applicant a requirement that the needed deposit be made within three (3) months together with the Notice of Allowance and Issue Fee Due. Although the period for paying the issue fee cannot be extended under the provisions of § 1.136, the period for satisfying the requirement to make an acceptable deposit may be extended under the provisions of that section. Failure to make the needed deposit in accordance with this requirement may be considered a failure to prosecute the application under 35 U.S.C. 133 and result in abandonment of the application.

The type of written assurance which will be considered acceptable by the Office that an acceptable deposit will be made within the required time must include sufficient information to conclude that there is no outstanding issue with regard to the deposit of an appropriate biological material under conditions which satisfy these rules.

In a proceeding involving a patent, it may not be possible to request a certificate of correction of the patent which meets the terms of paragraphs (b) and (c) of § 1.805. For example, if the patent owner is on notice that samples of an original deposit can no longer be furnished by the depository, failure to diligently make a replacement deposit will preclude grant of a certificate of correction. A replacement deposit subsequently made will not be recognized by the Office nor will a request for certificate of correction, even if made promptly thereafter, be granted. It would also not be possible to request a certificate of correction of the patent which meets the terms of paragraphs (b) and (c) of § 1.805 where no original deposit was made before or during the pendency of the application which matured into the patent.

A patent defective because of lack of a necessary deposit is necessarily fatally defective for failure to comply with the first paragraph of 35 U.S.C. 112. Reissue is not available in such cases. See *In re Hay*, 534 F.2d 917, 189 USPQ 790 (CCPA 1976). Whether reissue is available where a biological material necessary for compliance with 35 U.S.C. 112 was known and readily available at the time of issuance of the patent and subsequently ceased to be readily available is problematic. Nevertheless, the rules do not provide for post-issue original deposits.

Where an applicant for patent has any doubt whether access to a biological material specifically identified in the specification is necessary to satisfy 35 U.S.C. 112 or whether such a material, while presently freely available, may become unavailable in the future, the applicant would be well-advised to make a deposit thereof before any patent issues. Similarly, where a patent owner has any doubt whether a deposit referred to in the specification is of a biological material necessary to satisfy 35 U.S.C. 112 and, if the material is necessary, whether it is otherwise known and readily available, the patent

owner would be well-advised to follow the procedures set forth in paragraphs (b) and (c) of § 1.805 after receiving the notice specified in those paragraphs.

Paragraph (d) of this section sets forth the requirements for the content of the specification with respect to a deposited biological material. Specifically, the specification shall contain the accession number for the deposit, the date of the deposit, the name and address of the depository, and a description of the deposited biological material sufficient to specifically identify it and to permit examination. The description must be sufficient to permit verification that the deposited biological material is in fact that disclosed. Once the patent issues, the description must be sufficient to aid in the resolution of questions of infringement. As a general rule, the more information that is provided about a particular deposited biological material, the better the examiner will be able to compare the identity and characteristics of the deposited biological material with the prior art.

Other Considerations

The rules are in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Orders 12291 and 12612 and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel has certified to the Chief Counsel for Advocacy, Small Business Administration, that this rule change is not expected to have a significant adverse economic impact on a substantial number of small entites (Regulatory Flexibility Act, Pub. L. 96–354). The deposit practice will not impose extra work on patent applicants (whether small or large businesses or individuals).

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. There will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Patent and Trademark Office has also determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

These rules contain a collection of information requirement subject to the Paperwork Reduction Act which has been approved by the Office of Management and Budget under Control No. 0651–0022. Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed to make a deposit or request a sample, and completing and reviewing the collection of information. It is further estimated that a respondent depository would spend about five hours collecting and submitting the necessary information to be recognized as a suitable depository by the Office. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Organization, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Paperwork Reduction Project 0651–0022). No comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, were received in response to the notice of proposed rulemaking.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small business.

For the reason as set out in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. A new subpart G, consisting of an undesignated centered heading and §§ 1.801 to 1.809, is added to read as follows:

Subpart G—Biotechnology Invention Disclosures

Deposit of Biological Material

Sec.

1.801 Biological material.
1.802 Need or Opportunity to make a deposit.
1.803 Acceptable depository.
1.804 Time of making an original deposit.
1.805 Replacement or supplement of deposit.
1.806 Term of deposit.
1.807 Viability of deposit.
1.808 Furnishing of samples.
1.809 Examination procedures.

Subpart G—Biotechnology Invention Disclosures

Deposit of Biological Material

§ 1.801 Biological material.

For the purposes of these regulations pertaining to the deposit of biological material for purposes of patents for inventions under 35 U.S.C. 101, the term biological material shall include material that is capable of self-replication either directly or indirectly. Representative examples include bacteria, fungi including yeast, algae, protozoa, eukaryotic cells, cell lines, hybridomas, plasmids, viruses, plant tissue cells, lichens and seeds. Viruses, vectors, cell organelles and other non-living material existing in and reproducible from a living cell may be deposited by deposit of the host cell capable of reproducing the non-living material.

§ 1.802 Need or opportunity to make a deposit.

(a) Where an invention is, or relies on, a biological material, the disclosure may include reference to a deposit of such biological material.

(b) Biological material need not be deposited unless access to such material is necessary for the satisfaction of the statutory requirements for patentability under 35 U.S.C. 112. If a deposit is necessary, it shall be acceptable if made in accordance with these regulations. Biological material need not be deposited, inter alia, if it is known and readily avaliable to the public or can be made or isolated without undue experimentation. Once deposited in a depository complying with these regulations, a biological material will be considered to be readily available even though some requirement of law or regulation of the United States or of the country in which the depository institution is located permits access to the material only under conditions imposed for safety, public health or similar reasons.

(c) The reference to a biological material in a specification disclosure or the actual deposit of such material by an applicant or patent owner does not create any presumption that such material is necessary to satisfy 35 U.S.C. 112 or that deposit in accordance with these regulations is or was required.

§ 1.803 Acceptable depository.

(a) A deposit shall be recognized for the purposes of these regulations if made in

(1) any International Depositary Authority (IDA) as established under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, or

(2) any other depository recognized to be suitable by the Office. Suitability will be determined by the Commissioner on the basis of the administrative and technical competence, and agreement of the depository to comply with the terms and conditions applicable to deposits for patent purposes. The Commissioner may seek the advice of impartial consultants on the suitability of a depository. The depository must:

(i) Have a continuous existence;

(ii) Exist independent of the control of the depositor;

(iii) Possess the staff and facilities sufficient to examine the viability of a deposit and store the deposit in a manner which ensures that it is kept viable and uncontaminated;

(iv) Provide for sufficient safety measures to minimize the risk of losing biological material deposited with it;

(v) Be impartial and objective;

(vi) Furnish samples of the deposited material in an expeditious and proper manner; and

(vii) Promptly notify depositors of its inability to furnish samples, and the reasons why.

(b) A depository seeking status under paragraph (a)(2) of this section must direct a communication to the Commissioner which shall:

(1) Indicate the name and address of the depository to which the communication relates;

(2) Contain detailed information as to the capacity of the depository to comply with the requirements of paragraph (a)(2) of this section, including information on its legal status, scientific standing, staff and facilities;

(3) Indicate that the depository intends to be available, for the purposes of deposit, to any depositor under these same conditions;

(4) Where the depository intends to accept for deposit only certain kinds of biological material, specify such kinds;

(5) Indicate the amount of any fees that the depository will, upon acquiring the status of suitable depository under paragraph (a)(2) of this section, charge for storage, viability statements and furnishings of samples of the deposit.

(c) A depository having status under paragraph (a)(2) of this section limited to certain kinds of biological material may extend such status to additional kinds of biological material by directing a communication to the Commissioner in accordance with paragraph (b) of this section. If a previous communication under paragraph (b) of this section is of record, items in common with the previous communication may be incorporated by reference.

(d) Once a depository is recognized to be suitable by the Commissioner or has defaulted or discontinued its performance under this section, notice thereof will be published in the Office Gazette of the Patent and Trademark Office.

§ 1.804 Time of making an original deposit.

(a) Whenever a biological material is specifically identified in an application for patent as filed, an original deposit thereof may be made at any time before filing the application for patent or, subject to § 1.809, during pendency of the application for patent.

(b) When the original deposit is made after the effective filing date of an application for patent, the applicant shall promptly submit a verified statement from a person in a position to corroborate the fact, and shall state, that the biological material which is deposited is a biological material specifically identified in the application as filed, except if the person is an attorney or agent registered to practice before the Office, in which case the statement need not be verified.

§ 1.805 Replacement or supplement of deposit.

(a) A depositor, after receiving notice during the pendency of an application for patent, application for reissue patent or reexamination proceeding, that the depository possessing a deposit either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification, shall notify the Office in writing, in each application for patent or patent affected. In such a case, or where the Office otherwise learns, during the pendency of an application for patent, application for reissue patent or reexamination proceeding, that the depository possessing a deposit either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification, the need for making a replacement or supplemental deposit will be governed by the same considerations governing the need for making an original deposit under the provisions set forth in § 1.802(b). A replacement or supplemental deposit made during the pendency of an application for patent shall not be accepted unless it meets the requirements for making an original deposit under these regulations, including the requirement set forth under § 1.804(b). A replacement or supplemental deposit made in connection with a patent, whether or not made during the pendency of an application for reissue patent or a reexamination proceeding or both, shall not be accepted unless a certificate of correction under § 1.323 is requested by the patent owner which meets the terms of paragraphs (b) and (c) of this section.

(b) A request for certificate of correction under this section shall not be granted unless the certificate identifies:

(1) The accession number for the replacement or supplemental deposit;

(2) The date of the deposit; and

(3) The name and address of the depository.

(c) A request for a certificate of correction under this section shall not be granted unless the request is made promptly after the replacement or supplemental deposit has been made and:

(1) Includes a verified statement of the reason for making the replacement or supplemental deposit;

(2) Includes a verified statement from a person in a position to corroborate the fact, and shall state, that the replacement or supplemental deposit is of a biological material which is identical to that originally deposited;

(3) Includes a verified showing that the patent owner acted diligently—

(i) In the case of a replacement deposit, in making the deposit after receiving notice that samples could no longer be furnished from an earlier deposit or

(ii) In the case of a supplemental deposit, in making the deposit after receiving notice that the earlier deposit and become contaminated or had lost its compability to function as described in the specification;

(4) Includes a verified statement that the term of the replacement or supplemental deposit expires no earlier than the term of the deposit being replaced or supplemented; and

(5) Otherwise establishes compliance with these regulations, except that if the person making one or more of the required statements or showing is an attorney or agent registered to practice before the Office, that statement or showing need not be verified.

(d) A depositor's failure to replace a deposit, or in the case of a patent, to diligently replace a deposit and promptly thereafter request a certificate

of correction which meets the terms of paragraphs (b) and (c) of this section, after being notified that the depository possessing the deposit cannot furnish samples thereof, shall cause the application or patent involved to be treated in any Office proceeding as if no deposit were made.

(e) In the event a deposit is replaced according to these regulations, the Office will apply a rebuttable presumption of identity between the original and the replacement deposit where a patent making reference to the deposit is relied upon during any Office proceeeding.

(f) A replacement or supplement deposit made during the pendency of an application for patent may be made for any reason.

(g) In no case is a replacement or supplemental deposit of a biological material necessary where the biological material, in accordance with § 1.802(b), need not be deposited.

(h) No replacement deposit of a biological material is necessary where a depository can furnish samples thereof but the depository for national security, health or environmental safety reasons is unable to provide samples to requesters outside of the jurisdiction where the depository is located.

(i) The Office will not recognize in any Office proceeding a replacement deposit of a biological material made by a patent owner where the depository could furnish samples of the deposit being replaced.

§ 1.806 Term of deposit.

A deposit made before or during pendency of an application for patent shall be made for a term of at least thirty (30) years and at least five (5) years after the most recent request for the furnishing of a sample of the deposit was received by the depository. In any case, samples must be stored under agreements that would make them available beyond the enforceable life of the patent for which the deposit was made.

§ 1.807 Viability of deposit.

(a) A deposit of biological material that is capable of self-replication either directly or indirectly must be viable at the time of deposit and during the term of deposit. Viability may be tested by the depository. The test must conclude only that the deposited material is capable of reproduction. No evidence is necessarily required regarding the ability of the deposited material to perform any function described in the patent application.

(b) A viability statement for each deposit of a biological material defined in paragraph (a) of this section not made under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure must be filed in the application and must contain:

(1) The name and address of the depository;

(2) The name and address of the depositor;

(3) The date of deposit;

(4) The identify of the deposit and the accession number given by the depository;

(5) The date of the viability test;

(6) The procedures used to obtain a sample if the test is not done by the depository; and

(7) A statement that the deposit is capable of reproduction.

(c) If a viability test indicates that the deposit is not viable upon receipt, or the examiner cannot, for scientific or other valid reasons, accept the statement of viability received from the applicant, the examiner shall proceed as if no deposit has been made. The examiner will accept the conclusion set forth in a viability statement issued by a depository recognized under § 1.803(a).

§ 1.808 Furnishing of samples.

(a) A deposit must be made under conditions that assure that:

(1) Access to the deposit will be available during pendency of the patent application making reference to the deposit to one determined by the Commissioner to be entitled thereto under § 1.14 and 35 U.S.C. 122, and

(2) Subject to paragraph (b) of this section, all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of the patent.

(b) The depositor may contract with the depository to require that samples of a deposited biological material shall be furnished only if a request for a sample, during the term of the patent:

(1) Is in writing or other tangible form and dated;

(2) Contains the name and address of the requesting party and the accession number of the deposit; and

(3) Is communicated in writing by the depository to the depositor along with the date on which the sample was furnished and the name and address of the party to whom the sample was furnished.

(c) Upon request made to the Office, the Office will certify whether a deposit has been stated to have been made under conditions which make it available to the public as of the issue date of the patent grant provided the request contains:

(1) The name and address of the depository;

(2) The accession number given to the deposit;

(3) The patent number and issue date of the patent referring to the deposit; and

(4) The name and address of the requesting party.

§ 1.809 Examination procedures.

(a) The examiner shall determine pursuant to § 1.104 in each application for patent, application for reissue patent or reexamination proceeding if a deposit is needed, and if needed, if a deposit actually made is acceptable for patent purposes. If a deposit is needed and has not been made or replaced or supplemented in accordance with these regulations, the examiner, where appropriate, shall reject the affected claims under the appropriate provision of 35 U.S.C. 112, explaining why a deposit is needed and/or why a deposit actually made cannot be accepted.

(b) The applicant for patent or patent owner shall respond to a rejection under paragraph (a) of this section by—

(1) In the case of an applicant for patent, making an acceptable original or replacement or supplemental deposit or assuring the Office in writing that an acceptable deposit will be made on or before the date of payment of the issue fee, or, in the case of a patent owner, requesting a certificate of correction of the patent which meets the terms of paragraphs (b) and (c) of § 1.805, or

(2) Arguing why a deposit is not needed under the circumstances of the application or patent considered and/or why a deposit actually made should be accepted. Other replies to the examiner's action shall be considered non-responsive. The rejection will be repeated until either paragraph (b)(1) of this section is satisfied or the examiner is convinced that a deposit is not needed.

(c) If an application for patent is otherwise in condition for allowance except for a needed deposit and the Office has received a written assurance that an acceptable deposit will be made on or before payment of the issue fee, the Office will mail to the applicant a Notice of Allowance and Issue Fee Due together with a requirement that the needed deposit be made within three months. The period for satisfying this requirement is extendable under § 1.136. Failure to make the needed deposit in accordance with this requirement will result in abandonment of the application for failure to prosecute.

(d) For each deposit made pursuant to these regulations, the specification shall contain:

(1) The accession number for the deposit;

(2) The date of the deposit;

(3) A description of the deposited biological material sufficient to specifically identify it and to permit examination; and

(4) The name and address of the depository.

Dated: July 21, 1989.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

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federal register

Tuesday
August 22, 1989

Part IV

Department of Commerce

Patent and Trademark Office

37 CFR Part 2

Amendment of Trademark Rules Governing Inter Partes Proceedings, and Miscellaneous Amendments to Other Trademark Rules

DEPARTMENT OF COMMERCE

37 CFR Part 2

[Docket No. 81268-9163]

RIN 0651-AA36

Amendment of Trademark Rules Governing Inter Partes Proceedings, and Miscellaneous Amendments to Other Trademark Rules

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in trademark cases to revise and/or codify procedures for the examination of applications; appeals from final refusals of registration; and the institution and conduct of trademark interference, concurrent use, opposition, and cancellation proceedings. The amendments will assist the orderly and prompt resolution of issues in proceedings before the Trademark Trial and Appeal Board.

EFFECTIVE DATE: November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Janet E. Rice by telephone at (703) 557-3551 or by mail marked to her attention and addressed to Box 5, Trademark Trial and Appeal Board, Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Amendments to §§ 2.42, 2.68, 2.91, 2.92, 2.93, 2.102, 2.104, 2.106, 2.112, 2.113, 2.114, 2.119, 2.120, 2.121, 2.122, 2.123, 2.125, 2.127, 2.128, 2.129, 2.134, 2.135, 2.142, 2.145, and 2.186 were proposed in a notice of proposed rulemaking published in the **Federal Register** on March 7, 1989, at 54 FR 9514, the Patent and Trademark Office *Official Gazette* of March 28, 1989, at 1100 O.G. 137, and the Bureau of National Affairs' *Patent, Trademark & Copyright Journal*, Vol. 37, No. 921, pp. 477-486 (March 9, 1989). Corrections to the **Federal Register** printing of the notice of proposed rulemaking were published in the **Federal Register** on April 4, 1989, at 54 FR 13605. The purpose of these proposed rule amendments was to revise, simplify, remove, or clarify existing rules or to codify in rules certain practices which are currently in effect. The rules involved included those relating to the requirements for concurrent use applications; abandonment of trademark applications; appeals to the Trademark Trial and Appeal Board (Board) from the final refusal of registration in ex parte applications; institution and conduct of interference, concurrent use, opposition, and cancellation proceedings before the Board; review by civil action of a decision of the Board; and allowing an assignee to take action with respect to the assigned application or registration. Written comments were submitted by two firms, five individuals, and one organization. The relevant committee of another organization stated that it had nothing to add to the comments of the first organization. Two other organizations submitted letters indicating that they accepted the proposed rule amendments in their entirety.

Discussion of Specific Sections Being Changed

In this discussion, "Patent and Trademark Office" is abbreviated as "PTO" and "Trademark Trial and Appeal Board" is abbreviated as "Board."

Section 2.42(a), which specifies certain requirements for an application for registration as a lawful concurrent user, is amended to remove the designation "(a)" (because § 2.42(b) is removed) and to delete the qualifying phrase "to the extent of his knowledge" from the requirement that an applicant for registration as a lawful concurrent user state in the application the area, the goods, and the mode of use for which registration is sought. This information obviously is within the knowledge of the applicant and is essential for purposes of examination and publication.

Section 2.42(b), which requires that the verification or declaration in an application for registration as a lawful concurrent user "be made with the stated exceptions," is removed to simplify practice. The paragraph has been construed, in applications for registration based on concurrent use, as requiring that the portion of the verification or declaration which normally reads, "to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce," also include, after the word "association," the additional phrase "other than specified in the application." Because most applicants and/or their attorneys do not realize that this is the import of the paragraph, the examination process is often prolonged. Moreover, an applicant for registration based on concurrent use is required to list, in the statement portion of the application, the exceptions to applicant's right to exclusive use, so that it is clear that the verification or declaration is being made, in effect, with the stated exceptions. Therefore, the requirement for a verification or declaration which differs in form from that of an application for a geographically unrestricted registration is unnecessary.

Section 2.68, which pertains to the express abandonment of an application, presently provides, in the second sentence, that the fact that an application has been expressly abandoned shall not, in any proceeding in the PTO, affect any rights that the applicant may have in the mark which is the subject of the abandoned application. The section was proposed to be amended by inserting the phrase "during the ex parte prosecution thereof" immediately after the phrase "The fact that an application has been expressly abandoned." Instead, the section is being amended to include, at the beginning of the second sentence, a cross-reference to § 2.135 (i.e., "Except as provided in § 2.135, the fact that an application has been expressly abandoned shall not * * *"). The cross-reference to § 2.135 (which provides, in essence, that if an applicant whose application is the subject of an inter partes proceeding before the Board files a written abandonment of the application without the written consent of every adverse party, judgment shall be entered against the applicant) has been added, in lieu of the phrase specified in the notice of proposed rulemaking, and as a result of a written comment received thereon, to further clarify the section.

Section 2.91, which governs the declaration of interference proceedings, is amended to change the title of the section from "Interferences." to "Declaration of interference." The amendment is one of a series of amendments, involving §§ 2.91-2.93, intended to distinguish between the "declaration" of an interference by the Commissioner upon petition and the subsequent "institution" of the interference by the Board. *See* §§ 1208.04 and 1208.05 of the *Trademark Manual of Examining Procedure.*

Section 2.92, which pertains to certain matters preliminary to an interference, is revised to specifically indicate what must happen before an interference which has been "declared" by the Commissioner upon petition can be "instituted" by the Board.

Section 2.93, which governs the institution of an interference, is amended to, inter alia, change the title of the section from "Declaration of interference." to "Institution of interference.", and to revise the text of the paragraph to harmonize with §§ 2.91 and 2.92, as amended.

Section 2.102(c), which pertains to extensions of time for filing an opposition, was proposed to be amended to change the specified time period "120 days" to "four months." However, upon further consideration, it appears, for the reasons described hereafter in the "Response to Comments on the Rules" portion of this final rule notice, that the proposed amendment might add to confusion regarding the computation of extension periods. Accordingly, the proposal to amend this paragraph is withdrawn.

Section 2.104, which states certain requirements for a notice of opposition, is amended to redesignate the present paragraph as "(a)" and to add a new paragraph, designated "(b)," codifying the practice that oppositions to different applications owned by the same party may be joined in a consolidated opposition, when appropriate, provided that the required fees are paid. The proposed new paragraph parallels present § 2.112(b).

Section 2.106(b)(1), which contains provisions relating to opposition answers, is amended to include a short description of the content requirements for an answer to an opposition, just as present § 2.104 describes the content requirements for an opposition. The amendment parallels an amendment made herein to § 2.114(b)(1) concerning answers to petitions for cancellation. The description of the content requirements for an answer is modeled after portions of Rule 8 of the Federal Rules of Civil Procedure.

Section 2.106(c), which governs the withdrawal of an opposition, is amended to codify the practice that an applicant's written consent to the withdrawal of an opposition after answer may be signed by the applicant or by the applicant's attorney or other authorized representative. The amendment parallels amendments made herein to §§ 2.114(c), 2.134(a), and 2.135.

Section 2.112(a), which states requirements for a petition for cancellation, is revised to delete the requirement that a petitioner indicate in the petition "the respondent party to whom notification shall be sent," and to substitute a requirement that the petitioner indicate, to the best of the petitioner's knowledge, "the name and address of the current owner of the registration." The purposes of the revision are to provide the Board with information relating to the identity of the current owner of the registration sought to be cancelled, so that the Board can serve a copy of the petition on that party, and to remove any implication that the petitioner is permitted to designate who shall be the respondent. See also, in this regard, § 2.113, as amended herein.

Section 2.113, which concerns notification to the respondent of the filing of a petition for cancellation, is revised to codify the practice that the respondent shall be the party shown by the records of the PTO to be the current owner of the registration sought to be cancelled, except that the Board, in its discretion, may join or substitute as respondent a party who makes a showing of a current ownership interest in the registration. *See generally Gold Eagle Products Co.* v. *National Dynamics Corp.*, 193 USPQ 109 (TTAB 1976). The section is further revised to provide that when the party identified by the petitioner, pursuant to amended § 2.112(a), as the current owner of the registration or registrations is not the record owner thereof, a courtesy copy of the petition for cancellation shall be forwarded with a copy of the notification to the alleged current owner, which may file a motion to be joined or substituted as respondent.

Section 2.114(b)(1), which contains certain provisions relating to cancellation answers, is amended to include a short description of the content requirements for an answer to a petition for cancellation, just as present § 2.112(a) describes the content requirements for a petition for cancellation. The amendment parallels the amendment made herein to § 2.106(b)(1) concerning answers to oppositions.

Section 2.114(c), which governs the withdrawal of a petition for cancellation, is amended to codify the practice that a registrant's written consent to the withdrawal of a petition for cancellation after answer may be signed by the registrant or by the registrant's attorney or other authorized representative. The amendment parallels amendments made herein to §§ 2.106(c), 2.134(a), and 2.135.

Section 2.119, which presently governs service of papers, is amended to change the title from "Service of papers." to "Service and signing of papers.", so that the section title will describe the contents of the section as amended herein by the revision of paragraphs (b) and (c), and by the addition of two new paragraphs, designated "(d)" and "(e)."

Section 2.119(b), which states, inter alia, methods for service of papers, is revised to provide for two additional methods of service, namely, transmission by the "Express Mail" service of the United States Postal Service and transmission by overnight courier. The amendment codifies existing practice.

Section 2.119(c), which presently provides that when service is made by mail, the date of mailing will be considered the date of service; and that whenever a party is required to take some action within a prescribed period after the service of a paper upon him by another party and the paper is served by mail, 5 days shall be added to the prescribed period, is revised to specify that when service is made by first-class mail, "Express Mail," or overnight courier, the date of mailing or of delivery to the overnight courier will be considered the date of service; and that whenever a party is required to take some action within a prescribed period after the service of a paper upon such party by another party, and the paper is served by first-class mail, "Express Mail," or overnight courier, 5 days shall be added to the prescribed period. The amendments codify existing practice.

Section 2.119(d) is added to require that when a party to an inter partes proceeding before the Board is not domiciled in the United States, and is not represented by an attorney or other authorized representative located in the United States, the party must appoint a domestic representative on whom may be served notices or process in the proceeding. The purpose of the paragraph is to facilitate the service of papers on foreign parties not represented by domestic counsel in proceedings before the Board.

Section 2.119(e) is added to provide that every paper filed in an inter partes proceeding before the Board, and every request for an extension of time to file an opposition, must be signed by the party filing it, or by the party's attorney or other authorized representative. An unsigned paper will be refused consideration unless a signed copy is submitted before or within a time limit set in the PTO's notification of this defect. The purpose of the amendment is to simplify practice, and to eliminate the necessity for a petition to the Commissioner in the case of an unsigned notice of opposition or request for extension of time to oppose. The final rule includes a phrase that was not included in the proposed rule, namely, the phrase "and every request for an extension of time to file an opposition." The phrase has been added to further clarify the intent of the paragraph (that is, the paragraph was intended to cover requests for extension of time to oppose, but such a request is not, strictly speaking, a "paper filed in an inter partes proceeding before the Board," since at the time of the filing of a request for extension of time to oppose, there is not yet an opposition).

Section 2.120(a), which contains certain general provisions relating to discovery in inter partes proceedings before the Board, is amended to include a new sentence specifying that the opening of discovery is governed by the Federal Rules of Civil Procedure. The amendment is a codification of current practice. *See generally* Saul Lefkowitz and Janet E. Rice, *Adversary Proceedings Before the Trademark Trial and Appeal Board*, 75 TMR 323, 381–382 (1985).

Section 2.120(d), which presently pertains to document production, is amended to change the title from "Request for production." to "Interrogatories; request for production."; to redesignate the present paragraph as "(2)"; and to add a new paragraph, designated "(1)." The new paragraph limits the total number of interrogatories which a party may serve upon another party in a proceeding before the Board to seventy-five, counting subparts, with additional interrogatories being allowed by the Board, in its discretion, upon motion to the Board showing good cause, or upon stipulation of the parties; requires that a motion for leave to serve additional interrogatories be accompanied by a copy of the interrogatories, if any, which have already been served by the moving party, and by a copy of the interrogatories proposed to be served; and provide that if a party upon which interrogatories have been served believes that the number of interrogatories served exceeds the limitation specified in the paragraph, and is unwilling to waive this basis for objection, the party shall, within the time for (and instead of) serving answers and objections to the interrogatories, file a motion for a protective order, accompanied by a copy of the interrogatories which together are said to exceed the limitation. The purpose of the new paragraph is to discourage parties from using written interrogatories for purposes of harassment, as exemplified in the case of *C. H. Stuart Inc.* v. *S. S. Sarna, Inc.*, 212 USPQ 386 (TTAB 1980). The amendment is believed to be in general harmony with corresponding local rules now prevalent in the federal district courts.

Section 2.120(g), which provides for the imposition of sanctions for failure to comply with an order of the Board relating to discovery, is amended to change the title from "Failure to comply with order." to "Sanctions."; to redesignate the present paragraph as "(1)"; and to add a new paragraph, designated, "(2)," providing that if a party fails to attend its discovery deposition, after being served with proper notice, or fails to respond to a set of interrogatories or to a set of requests for production of documents and things, and the party or the party's attorney informs the party seeking discovery that no response will be made thereto, the Board may make any appropriate order by way of sanctions. The purpose of the amendment is to eliminate the expense and delay resulting from the present practice, embodied in present paragraphs (e) and (g) of § 2.120, that in situations of the type described in the new paragraph, a motion to compel must be filed and granted and the resulting order violated before the party seeking discovery may move for sanctions. The proposed practice is in harmony with Rule 37(d) of the Federal Rules of Civil Procedure.

Section 2.120(j)(3), which describes how a discovery deposition, interrogatory answer, or admission may be made of record by a party entitled to rely thereon, is amended to redesignate the present paragraph as "(i)" and to add a new paragraph, designated "(ii)." The new paragraph codifies the existing practice, exemplified in cases such as *Jeanne-Marc, Inc.* v. *Cluett, Peabody & Co., Inc.*, 221 USPQ 58 (TTAB 1984); *Autac Inc.* v. *Viking Industries, Inc.*, 199 USPQ 367 (TTAB 1978); *Harvey Hubbell, Inc.* v. *Red Rope Industries, Inc.*, 191 USPQ 119 (TTAB 1976); and *MRI Systems Corp.* v. *Wesley-Jessen, Inc.*, 189 USPQ 214 (TTAB 1975), that a party which has obtained documents from another party, pursuant to a request for production under Rule 34 of the Federal Rules of Civil Procedure, may not make the produced documents of record by notice of reliance alone, except to the extent that the documents fall within the provisions of § 2.122(e). The reason for the practice is that documents so obtained generally suffer from a lack of proper authentication, unless they are of the self-authenticating type admissible by notice of reliance under § 2.122(e).

Section 2.120(j)(4), which presently provides, in effect, that if an appropriate party files a notice of reliance upon only part of a discovery deposition, an adverse party may file a notice of reliance upon any other part of the deposition which should in fairness be considered so as to make not misleading what was offered by the submitting party, is amended to require that the notice of reliance filed by the adverse party be supported by a written statement explaining why the adverse party needs to rely upon each of the additional parts listed in the adverse party's notice, failing which the Board, in its discretion, may refuse to consider the additional parts. The amendment represents a codification of current practice. *Cf. Alabama Board of Trustees* v. *BAMA-Werke Curt Baumann*, 231 USPQ 408, 409 (TTAB 1986), and *Holiday Inns, Inc.* v. *Monolith Enterprises*, 212 USPQ 949, 950–951 (TTAB 1981).

Section 2.120(j)(5), which presently specifies who may make of record (by notice of reliance) an interrogatory answer or an admission, is amended to require that a party which seeks to rely upon certain of its own responses to interrogatories or requests for admissions, pursuant to the fairness exception presently provided in the paragraph, support its notice of reliance with a written statement explaining why it needs to rely upon each of the additional discovery responses listed in the notice, failing which the Board, in its discretion, may refuse to consider the additional parts. The amendment parallels the amendment made herein to paragraph (j)(4) of the section and represents a codification of current practice. *See The Board of Trustees of the University of Alabama* v. *BAMA–Werke Curt Baumann, supra*, and *Holiday Inns, Inc.* v. *Monolith Enterprises, supra*.

Section 2.120(j)(8), which presently provides that "[i]nterrogatories, requests for production, requests for admissions, and materials or depositions obtained during the discovery period" should not be filed with the Board except under certain specified circumstances, one of which is "when submitted with a motion to compel," is revised to provide that "requests for discovery, responses thereto, and materials or depositions obtained through the discovery process" should not be filed with the Board except under certain specified circumstances; to change the phrase "when submitted with a motion to compel" to "when submitted with a motion relating to discovery;" and to state that papers or materials filed in violation of the paragraph may be returned by the Board. The purpose of the revision is to clarify the beginning of the paragraph, and to reduce the number of papers and materials which must be retained in a proceeding file and stored by the Board. The amendment changing the phrase "when submitted with a motion to compel" to "when submitted with a motion relating to discovery" did not appear in the notice of proposed rulemaking as a proposed amendment. However, the amendment is "housekeeping" in nature, being necessary to harmonize this paragraph with amendment § 2.120(d)(1), which

requires that copies of interrogatories be filed with the Board in connection with two additional discovery motions, namely, the motion for leave to serve additional interrogatories, and the motion for a protective order filed in response to interrogatories believed to be excessive in number.

Section 2.121(a)(1), which governs the scheduling of trial periods, is amended to include a new sentence codifying the practice that the resetting of a party's time to respond to an outstanding request for discovery will not automatically result in the rescheduling of the discovery and/or testimony periods, and that such dates will be rescheduled only upon stipulation of the parties approved by the Board, or upon motion granted by the Board, or by order of the Board.

Section 2.122(e), which presently requires that a notice of reliance on a printed publication specify the printed publication and the pages to be read, indicate generally the relevance of the material being offered, and be accompanied by "the printed publication or a copy of the relevant portion thereof, including the title page and any other page needed to show the place and date of publication, the name and address of the publisher, and the name of the author or the editor," is amended to require that the notice of reliance specify the printed publication (including information sufficient to identify the source and the date of the publication) and the pages to be read; indicate generally the relevance of the material being offered; and be accompanied by the printed publication or a copy of the relevant portion. The purpose of the amendment is to simplify practice.

Section 2.123(c), which governs notices of depositions, is amended to clarify the paragraph and to codify the current practice that testimony depositions may be noticed for any reasonable time and place in the United States, but that a testimony deposition may not be noticed for a place in a foreign country except as provided in paragraph (a)(2) of the section. This codification of practice as to the place where testimony depositions may be taken roughly parallels § 1.673(a), which governs the taking of testimony depositions in patent interference proceedings in the PTO.

Section 2.123(e)(2), which pertains to the examination of witnesses during oral deposition, is amended to include a new sentence stating that exhibits which are marked and identified at a deposition will be deemed to have been offered into evidence, without any formal offer thereof, unless the intention of the party marking the exhibits is clearly expressed to the contrary. The purpose of the amendment is to revise existing practice, which requires, on the part of the party marking the exhibits, either a formal offer or a clear indication in the transcript of an intent to introduce the exhibits. *See, e.g., Roux Laboratories, Inc.* v. *Kaler*, 214 USPQ 134, 135–136 (TTAB 1982); *H. Betti Industries, Inc.* v. *Brunswick Corp.*, 211 USPQ 1188, 1189 (TTAB 1981); and *Kay Corp.* v. *Weisfield's, Inc.*, 190 USPQ 565, 567–568 (TTAB 1976). Under the existing practice, a party can lose a case simply because the party's attorney forgets to make a formal offer of the exhibits marked and identified during the party's testimony deposition. Under the practice set forth in the amended paragraph, the Board will be able to determine such cases on their merits, rather than on the basis of a technical defect.

Section 2.123(g)(1), which relates to the form of deposition transcripts, is amended to permit the use of paper with numbered lines as an alternative to consecutively numbering the questions propounded to a witness. The amendment, which parallels § 1.677(a), the provision governing the form of deposition transcripts in patent interference proceedings, will simplify practice.

Section 2.125(a), which governs the filing and service of testimony, is amended to codify the existing practice that if a copy of a deposition transcript, with exhibits, is not served upon each adverse party within thirty days after completion of the taking of the testimony or within an extension of time for that purpose, any adverse party which was not served may have remedy by way of a motion to the Board to reset the adverse party's testimony and/or briefing periods, as may be appropriate. The paragraph is further amended to provide that if the deposing party fails to serve a copy of the transcript with exhibits on an adverse party after having been ordered to do so by the Board, the Board may strike the deposition, or enter judgment by default against the deposing party, or take other action as may be deemed appropriate.

Section 2.127(e)(1) is added to codify the long-established practice that a motion for summary judgment should be filed prior to the commencement of the first testimony period, as originally set or as reset, and that the Board, in its discretion, may deny as untimely any motion for summary judgment filed thereafter. *See Rainbow Carpet, Inc.* v. *Rainbow International Carpet Dyeing & Cleaning Co.*, 226 USPQ 718 (TTAB 1985); *Allegro High Fidelity, Inc.* v. *Zenith Radio Corp.*, 197 USPQ 550 (TTAB 1977); *La Maur, Inc.* v. *Bagwells Enterprises, Inc.*, 193 USPQ 234 (Comm'r Pat. 1976); *Peterson's Ltd., Inc.* v. *Consolidated Cigar Corp.*, 183 USPQ 559 (TTAB 1974); *Cities Service Oil Co.* v. *Perfection American, Inc.*, 157 USPQ 209 (TTAB 1968); T. Jeffrey Quinn, *Tips From the TTAB: Inter Partes Summary Judgment Revisited*, 76 TMR 73 (1986); and David J. Kera, *Tips From the TTAB: Summary Judgment*, 71 TMR 59, 61–62 (1981).

Section 2.127(e)(2) is added to provide, in essence, that for purposes of summary judgment only, a party may rely on its own responses to requests for discovery served upon it by an adverse party. The new paragraph changes the Board's current practice, under which a party normally is not permitted to rely upon its own responses to discovery for purposes of summary judgment. It is believed that the new practice will be more consistent with the practice in the Federal district courts.

Section 2.127(f) is added to codify the existing practice that the Board does not have authority to hold any person in contempt, or to award attorneys' fees or other expenses to any party. Although paragraphs (f), (g), and (h) of § 2.120, the section which governs the taking and use of discovery in inter partes proceedings before the Board, include provisions very similar in nature to the new paragraph, some litigants and/or their attorneys have mistakenly assumed that the Board has the authority to award attorneys' fees or other expenses in situations not involving a failure to provide discovery. The addition of this new paragraph to § 2.127, the section which governs motions in general, will clarify the matter.

Section 2.128(b), which presently provides, in pertinent part, that without leave of the Board, no brief shall contain more than fifty pages of argument, is amended to specify a minimum type or print size for a brief and to provide that without prior leave of the Board, a main brief on the case shall not exceed fifty-five pages in length in its entirety. Litigants before the Board, and their attorneys, are often confused as to exactly what is encompassed by the term "argument," as used in the present paragraph. The amendment simplifies and clarifies practice by specifying length limits for briefs in their entireties, followed by a list of the elements which are included within the length limit. The limit specified in the amended paragraph is five pages longer than that specified in the present paragraph, because the new length limit covers the entire brief, including the table of

contents and index of cases, whereas the present length limit does not.

Section 2.129(a), which presently provides, in pertinent part, that oral arguments at final hearing will be heard by three Members of the Board, is amended to provide that such oral arguments will be heard by at least three Members of the Board. The purpose of the amendment, which parallels an amendment made herein to § 2.142(e)(1), is to reflect the Board's use of augmented panels in certain cases.

Section 2.134(a), which pertains to the surrender or voluntary cancellation of a registration which is the subject of a cancellation proceeding before the Board, is amended to codify the practice that in a cancellation proceeding, an adverse party's consent to the respondent's voluntary surrender of the involved registration may be signed by the adverse party or by the adverse party's attorney or other authorized representative. The amendment parallels amendments made herein to §§ 2.106(c), 2.114(c), and 2.135.

Section 2.135, which states the effect of the abandonment of an application which is the subject of an inter partes proceeding before the Board, is amended to codify the practice that in an opposition, concurrent use, or interference proceeding, an adverse party's consent to an applicant's abandonment of the applicant's involved application may be signed by the adverse party or by the adverse party's attorney or other authorized representative. The amendment parallels amendments made herein to §§ 2.106(c), 2.114(c), and 2.134(a).

Section 2.142(b), which governs ex parte appeal briefs, is amended to redesignate the present paragraph as "(1)" and to add a new paragraph, designated "(2)," codifying the form requirements and a length limit (twenty-five pages) for briefs filed in connection with ex parte appeals to the Board.

Section 2.142(e)(1), which presently provides that oral argument on an ex parte appeal to the Board will be heard by three Members of the Board, is amended to provide that oral argument will be heard by at least three Members of the Board. The purpose of the amendment, which parallels an amendment made herein to § 2.129(a), is to reflect the Board's use of augmented panels in certain cases.

Section 2.142(f)(6) is added to codify the practice that if, during an appeal to the Board from a refusal of registration, it appears to the examiner that an issue not previously raised may render the mark of the appellant unregistrable, the examiner may, by written request, ask the Board to suspend the appeal and to remand the application to the examiner for further examination.

Section 2.145(c)(4) is added to provide that a party to a proceeding before the Board which commences a civil action, pursuant to section 21(b) of the Act, seeking review of a decision of the Board should file written notice with the Board, within one month after the expiration of the time for appeal or civil action, in order to avoid premature termination of the Board proceeding. The purpose of the amendment is to ensure that parties who seek review of Board decisions by way of civil action will be aware of the need for informing the Board thereof.

Section 2.186, which presently provides that any action with respect to an assigned application or registration which may or must be taken by a registrant or applicant may be taken by the assignee provided that the assignment has been recorded, is amended by adding at the end the phrase "or that proof of the assignment has been submitted." The purpose of the amendment is to bring the section into closer conformity with section 10 of the Act.

Response to Comments on the Rules

The written comments received in response to the notice of proposed rulemaking have been given careful consideration, and a number of the suggested modifications have been adopted. The comments and responses are discussed below.

Comment: In the notice of proposed rulemaking, it was stated in the "Discussion of Specific Sections Proposed to be Changed" that § 2.68, which pertains to the express abandonment of an application, was proposed to be amended to indicate that the section applies only to the abandonment of an application during the ex parte prosecution thereof, i.e., an application not involved in an inter partes proceeding before the Board. Specifically, the proposed amendment was that the second sentence of the section, which presently reads, "The fact that an application has been expressly abandoned shall not, in any proceeding in the Patent and Trademark Office, affect any rights that the applicant may have in the mark which is the subject of the abandoned application," be amended by adding the phrase "during the ex parte prosecution thereof" immediately after the phrase "The fact that an application has been expressly abandoned." One firm commented that if the proposed amendment was intended to clarify the fact that this section applies only to ex parte applications, the phrase "during the ex parte prosecution thereof" should be added not to the second sentence of the section but rather after the words "An application" in the first sentence, which presently reads, "An application may be expressly abandoned by filing in the Patent and Trademark Office a written statement of abandonment or withdrawal of the application signed by the applicant, or the attorney or other person representing the applicant."

Response: The intent of the proposed amendment was to make it clear that the second sentence of the section (i.e., the sentence which provides, in essence, that the express abandonment of an application shall not, in any proceeding in the PTO, affect any rights which applicant may have in the mark which was the subject of the abandoned application) applies only to the abandonment of an application during ex parte prosecution (the effect of the abandonment of an application which is the subject of an inter partes proceeding before the Board being governed by § 2.135). Thus, the "Discussion of Specific Sections Proposed to be Changed" should have stated that § 2.68 was proposed to be amended to indicate that the "second sentence of the section" (not "the section") applies only to the abandonment of an application during the ex parte prosecution thereof. The first sentence of the section, which relates to the form of an express abandonment, is applicable both to applications which are the subject of an inter partes proceeding before the Board and to those which are not. Thus, the suggested modification has not been adopted. However, for purposes of added clarity, and in lieu of the amendment proposed in the notice of proposed rulemaking, the beginning of the second sentence of the section is being modified to include a cross-reference to § 2.135 (i.e., "Except as provided in § 2.135, the fact that an application has been expressly abandoned shall not * * *").

Comment: Section 2.102(c) was proposed to be amended to change the specified time beyond which an extension of time to oppose will not be granted without the consent of the applicant or a showing of extraordinary circumstances, from "120 days from the date of publication" to "four months from the date of publication." The organization indicated its belief that since the proposed change would not affect the statutorily mandated "30 day" period for filing an opposition, the amendment would (at least initially) add to confusion regarding the computation of extension periods. In the same vein, one firm commented that the proposed

amendment would make sense provided the Board allows potential opposers to request extensions of time to oppose in terms of months rather than days.

Response: It is true that under section 13 of the Act of 1946, the statutorily mandated period for filing an opposition is "thirty days after the publication * * * of the mark sought to be registered." Section 13 further provides, in part, that the time for filing an opposition shall be extended for an additional thirty days upon written request prior to the expiration of the thirty-day opposition period, and that further extensions of time for filing an opposition may be granted by the Commissioner for good cause when requested prior to the expiration of an extension. Upon further consideration, it appears that the proposed amendment may encourage potential opposers to request the first and subsequent extensions of time to oppose in terms of months rather than days, causing confusion in the computation of extension periods. Accordingly, the proposal to amend § 2.102(c) is withdrawn. In the event that section 13 of the Act is amended to change the time periods specified therein from "thirty days" to "one month," the proposal to amend § 2.102(c) to change the designation "120 days" to "four months" may be included in a future notice of proposed rulemaking.

Comment: With respect to the proposal to revise § 2.113 (which concerns notification to the respondent of the filing of a petition for cancellation) to indicate that the respondent "shall be the party shown by the records of the Patent and Trademark Office to be the current owner of the registration or registrations sought to be cancelled, except that the Board, in its discretion, may join or substitute as respondent a party who makes a showing of a current ownership interest in such registration or registrations," one individual suggested, in effect, that the section be further revised to provide that if the party identified by the petitioner as the current owner of the registration is not the party shown by the records of the PTO to be the owner, service of the notification and of the petition will be made on the identified current owner as well as on the record owner. The individual notes that this revision would make § 2.113 consistent with proposed (and amended) § 2.112(a) (governing the contents of a petition for cancellation), which requires, in part, that the petitioner indicate, to the best of petitioner's knowledge, the name and address of the current owner of the registration. In addition, one firm suggested that § 2.113 be further revised to provide that a copy of a petition for cancellation will be sent (by the Board) both to the registrant and to the registrant's last attorney of record. The firm expressed its belief that sending a copy of the petition for cancellation to the registrant's last attorney of record as well as to the registrant "may serve to speed up cancellation proceedings, which are sometimes delayed by many months by reason of the fact that the registrant cannot be located and it is necessary to publish notice of the proceeding in the Office Gazette."

Response: Under present practice, when a petitioner informs the Board of petitioner's belief that the registration sought to be cancelled is currently owned by a party other than the party shown by the records of the PTO to be the owner, the Board sends a copy of the notification and of the petition to cancel both to the record owner, and to the party identified by the petitioner as the current owner. The current owner may file a motion, supported by evidence of its current ownership of the registration, to be joined or substituted as respondent. The paragraph has been modified, as suggested by the first individual, to reflect this practice.

As to the suggestion that § 2.113 be further revised to provide that a copy of the petition for cancellation will be sent both to the registrant and to the registrant's last attorney of record, it is the practice of the Board, in those cases where the respondent's copy of the petition for cancellation is returned to the Board as undeliverable, to send a written communication to the petitioner asking the petitioner for information concerning respondent's current address. If the petitioner files a response indicating that the respondent is no longer in business, notice of the proceeding is published in the *Official Gazette.* If the petitioner fails to file a reponse, or files a response indicating that it is unable to furnish respondent's current address, the Board attempts to locate the respondent. Typically, the Board will contact a telephone information operator in the city of respondent's last-known address; the respondent's last attorney of record, if there is an attorney and such attorney's last appearance of record on the respondent's behalf was within the last five years or so; and/or the Secretary of State of the respondent's state of incorporation. If the Board is unable to locate the respondent after reasonable investigation, notice of the proceeding is published in the *Official Gazette.*

The practice suggested by the firm would be burdensome to the Board since the Board would have to make an extra copy of the petition to cancel (and any exhibits attached thereto) to send to the attorney; this would have to be done for most cancellation proceedings, since most respondents have been represented by counsel at one time or another; and in those cases where the copy of the petition for cancellation mailed to the respondent's attorney was returned to the Board as undeliverable, the returns would be additional receipts to be processed by the Board.

Under the Board's present practice, on the other hand, the Board acts only in those cancellation proceedings in which the respondent's copy of the petition for cancellation is returned as undeliverable (a minority of cases).

Preliminary steps have been taken to begin giving notice, by publication in the *Official Gazette*, of the filing of every petition for cancellation soon after its filing date, thus eliminating the need for a later service by publication in cases where the Board's efforts to serve notice of the proceeding by mail are unsuccessful.

Accordingly, the modification suggested by the firm has not been adopted.

Comment: Section 2.119(b), which lists methods for service of papers by one party upon another in an inter partes proceeding before the Board, was proposed to be amended to specifically provide for the service of papers by two additional methods, namely, transmission by the "Express Mail" service of the United States Postal Service and transmission by overnight courier. One individual applauded the proposal but commented that on one occasion, a problem arose when an overnight courier delivered a paper directly to the PTO at its physical location in Virginia. The individual suggested that if the proposed amendment is adopted, "the overnight courier should be provided a physical address rather than Box 5 at Washington DC 20231."

Response: Section 2.119(b) pertains to the service of papers by one party upon another, not to the filing of papers with the PTO.

Comment: Section 2.119(c), which presently provides, in part, that whenever a party is required to take some action within a prescribed period after the service of a paper upon that party by another party and the paper is served by mail, 5 days shall be added to the prescribed period, was proposed to be amended to apply also to service by "Express Mail" or by ovenright courier. One individual commented that when

service is made by "Express Mail" or overnight courier, the addition of 5 days to any prescribed time period for taking action seems unjustified. This individual suggested that the paragraph be modified to provide for the addition of only one day to the prescribed time for taking action when service is made by "Express Mail" or by overnight courier.

Response: Since papers transmitted by "Express Mail" or by overnight courier are not always delivered in one day, it was determined that the number of added days for service should be the same for service by "Express Mail" or by overnight courier as for service by first-class mail. An attorney who does not want to give an adverse party the advantage of having 5 added days after service by "Express Mail" or by overnight courier can always elect to serve by first-class mail instead. Accordingly, the suggested modification has not been adopted.

Comment: New § 2.119(d) was proposed to be added to require, in essence, that a party to an inter partes proceeding who is not domiciled in the United States and is not represented by an attorney or other authorized representative located in the United States, appoint a domestic representative on whom may be served notices or process in the proceeding. One firm commented that the proposed paragraph might be redundant because any foreign applicant is required (by § 2.24) to designate a domestic representative in the application.

Response: In the notice of proposed rulemaking, the term "application" was inadvertently used instead of the correct term "proceeding" in the second sentence of the paragraph. Although § 2.24 requires that an applicant not domiciled in the United States appoint a domestic representative, there is no rule which makes any similar requirement in the case of a foreign opposer, petitioner, or respondent involved in an inter partes proceeding before the Board. The proposal to add new § 2.119 was intended to remedy that oversight and thus to facilitate the service of papers on foreign opposers, petitioners and respondents not represented by domestic counsel. Inasmuch as there is, in fact, a need for the proposed requirement, proposed § 2.119(d) is adopted herein as a final rule, and the second sentence has been corrected by substituting the term "proceeding" for the term "application."

Comment: Section 2.120(a), which contains certain general provisions relating to discovery in inter partes proceedings before the Board, was proposed to be amended to include a new sentence specifying that the opening of discovery is governed by the Federal Rules of Civil Procedure. One firm commented, in essence, that the proposed amendment "does not clarify the situation of when discovery opens;" that the opening of discovery as set forth in the Federal Rules of Civil Procedure does not work in opposition and cancellation proceedings because of the delay (of one to two months) between the filing of the complaint, i.e., the notice of opposition or petition for cancellation, and service of a copy of the complaint upon the defendant by the Board; that this delay gives the defendant, which may start to take discovery immediately after the complaint is filed, an advantage over the plaintiff, which cannot take discovery until a copy of the complaint has been served by the Board upon the defendant, and is not entitled to receive responses to its interrogatories, requests for production, and requests for admission until 45 days after such service by the Board; and that the "preferred situation would be for the Board to set forth a specific time before which discovery requests cannot be served," as, for example, to provide that discovery opens on the date that the Board notifies the defendant of the filing of the proceeding.

Response: It is apparent that the thrust of the firm's comments relating to this proposed amendment is not that the proposed new provision is unclear but rather that the firm would prefer a different practice with respect to the opening of discovery in proceedings before the Board. The proposed amendment codifies a long-standing practice which, in the experience of the Board, has worked smoothly. Although some defendants in Board opposition and cancellation proceedings learn about the existence of the proceeding, and serve discovery requests, before the Board serves them with a notice of the filing of the proceeding and a copy of the complaint, most do not. Nor does the plaintiff, who, after all, is the party which initiated the proceeding, and has had time to plan and prepare therefor, suffer any real prejudice (as opposed to a possible perceived tactical disadvantage) in those cases where the defendant does initiate discovery before the plaintiff can do so. Accordingly, the modification suggested by the firm has not been adopted.

Comment: Section 2.120(d) was proposed to be amended to include a new paragraph, designated "(1)," limiting the number of interrogatories which a party may serve upon another party to twenty-five, not counting subparts (required to be relevant, and reasonable in number), with additional interrogatories being allowed by the Board, in its discretion, only upon motion to the Board showing extraordinary circumstances, or upon stipulation of the parties.

One individual expressed his belief that the proposed "extraordinary circumstances" test is too harsh and suggested instead that the test be "substantial need in the preparation of the moving party's case."

A second individual expressed his belief that the "reasonable number of relevant subparts" provision is so subjective that it would lead to an increase in discovery disputes and motions. This individual suggested that the interrogatory limit be set at fifty rather than twenty-five, and that the "reasonable number of relevant subparts" provision be replaced with the sentence, "In computing the total number of interrogatories, each subdivision of separate questions shall be counted as an interrogatory."

A third individual commented that limiting interrogatories to twenty-five with a reasonable number of subparts would cause uncertainty over whether interrogatories, although numbered twenty-five or less, actually contain more than twenty-five separate questions, leading litigants to make their own count of the questions, answer twenty-five, and not answer fully the remainder on the ground that supernumerary questions are not authorized by the rules. To remedy this problem, the individual suggested that if the proposed rule is adopted, it might be advisable to add "a provision prescribing that relief for an excessive number of interrogatories is a protective order rather than an incomplete response to the interrogatories." The same individual also commented that in any event, the rule should not be applied to pending cases.

One firm commented that by stating that the twenty-five interrogatories may contain a reasonable number of relevant subparts, the whole purpose of the proposed rule (to discourage harassment by the use of too many interrogatories) has been defeated since the interrogatory limit can easily be avoided by using subparts. The firm suggested that the number of interrogatories be limited instead to a stated number, such as 125, including subparts; and that the rule be clarified to provide for extra interrogatories in cases where more than one mark is involved.

Another firm expressed its belief that the number of interrogatories should not be limited; that the proposed rule would make practice before the Board more expensive and less convenient; that the

particular number limit proposed is even below the number allowed by some federal courts; that the "extraordinary circumstances" test is not practical because of the lack of specificity as to what constitutes "extraordinary" circumstances, and because of the delay involved in having to file a motion to obtain a ruling on the question; and that a better practice would be a provision which allows a party to move for a limitation on the number of interrogatories if a problem arises. This firm submitted copies of a number of different federal district court local rules pertaining to interrogatories.

Finally, an organization expressed its concern that the proposed limitation on the number of interrogatories could: (1) Lead to an increase in motions to the Board in order to permit parties to serve valid follow-up interrogatories regarding prior responses and documents produced; or (2) result in increased reliance on depositions, generally a more costly and intrusive form of discovery. The organization recommended that the PTO monitor the impact of this amendment carefully and further amend the rule to make it less restrictive, if the circumstances warrant.

Response: Upon careful consideration of the comments, and supporting arguments, submitted with respect to proposed § 2.120(d)(1), it is concluded that the "reasonable number of relevant subparts" provision is so subjective that it would lead to a large increase in discovery disputes and motions, and hence be burdensome both to the Board and to litigants and their attorneys. Moreover, if unlimited subparts were allowed, the purpose of the proposed paragraph (to discourage parties from using written interrogatories for purposes of harassment) would, as noted by the firm, be defeated, since the interrogatory number limit could easily be avoided through the use of many subparts; whereas, if no subparts were allowed (or if each subpart were counted as an interrogatory), the limit in the proposed rule might lead to increased use of discovery depositions, a more costly form of discovery. The proposed limitation was not intended to deprive parties of interrogatories for which they have a legitimate need or to make it more expensive for parties to obtain discovery. Rather, it was intended to protect litigants from being harrassed by excessive numbers of interrogatories. Accordingly, the proposed paragraph has been modified to limit the total number of interrogatories which a party may serve upon another party in a proceeding to seventy-five, counting subparts, with additional interrogatories being allowed by the Board, in its discretion, upon motion to the Board showing good cause, or upon stipulation of the parties. The words "total" and "in a proceeding," which were not included in the proposed rule, have been included in the final rule to make it clear that the number limitation refers to the total number of interrogatories served during an entire proceeding, not just per set of interrogatories.

The suggestion that the final rule include, in lieu of a specific limitation on the number of interrogatories which may be served, a provision allowing a party to move for a limitation on the number of interrogatories if a problem arises, has not been adopted. It is believed that such a provision would result in a large number of motions from parties which would not be willing to answer interrogatories without first obtaining a ruling from the Board as to whether the interrogatories were reasonable in number.

The amended paragraph has not been modified to provide for extra interrogatories in cases where more than one mark is pleaded by the plaintiff, or where the proceeding involves more than one mark registered or sought to be registered by the defendant, because in such cases the adverse party may simply request that each interrogatory be answered with respect to each mark, and the interrogatories will be counted the same as if they pertained to only one mark. In the same vein, the final rule does not provide for extra interrogatories in cases where there is a counterclaim for cancellation of a plaintiff's pleaded registration or registrations, because the discovery information needed by a defendant in a proceeding before the Board for purposes of defending itself against the plaintiff's claim usually encompasses any information which may be needed for a counterclaim. Thus, it is believed that in most cases, the mere fact that there may be a multiple mark situation, or a counterclaim, will not result in a need for interrogatories exceeding in total number the limitation specified in the final rule. However, in those cases where there is, because of a multiple mark or counterclaim situation, a legitimate need for interrogatories exceeding the specified limit in number, the party who wishes to serve additional interrogatories will be able to make the requisite showing of good cause in support of a motion for leave to do so.

For purposes of clarity, the final paragraph includes (as did several of the Federal district court local rules submitted by one firm) a requirement that a motion for leave to serve additional interrogatories be accompanied by a copy of the interrogatories which have already been served by the moving party, if any, and by a copy of the interrogatories proposed to be served. Obviously, the Board cannot make an informed ruling on such a motion without these copies.

The final paragraph also includes, as suggested by one individual, a provision indicating that relief for an excessive number of interrogatories is a protective order rather than an incomplete response to the interrogatories. Specifically, the final paragraph states that if a party upon which interrogatories have been served believes that the number of interrogatories served exceeds the limitation specified in the paragraph, and is not willing to waive this basis for objection, the party shall, within the time for (and instead of) serving answers and objections to the interrogatories, file a motion for a protective order, accompanied by a copy of the interrogatories which together are said to exceed the limitation.

The suggestion that this rule not be applied to pending cases has not been adopted. By a final rule notice published in the **Federal Register** on April 18, 1972 at 37 FR 7605, the rules of practice in trademark cases were amended to substantially adopt the liberal discovery practice provided under the Federal Rules of Civil Procedure. Those rule amendments were made applicable to all proceedings filed on or after July 1, 1972. The result was that for a number of years, some inter partes cases before the Board were governed by one set of rules, providing a liberal discovery practice, and others were governed by another set of rules under which discovery was more restricted. This situation caused confusion among litigants and their attorneys and was burdensome to the Board. Further, it is desirable that other rule amendments herein be made effective in all cases as soon as possible, and it would be extremely confusing for all concerned if some of the rule amendments were made applicable to all cases pending before the Board on or after the effective date of the rule amendments, and others were made applicable only to proceedings which commenced on or after that date. For these reasons, it is believed that the better alternative is to make the new interrogatory rule applicable to all inter partes proceedings pending before the Board on or after the effective date of the rule amendments. However, the new rule

will apply only to interrogatories served on or after that date (although interrogatories served prior to that date will, of course, be counted in determining whether interrogatories served after the effective date violate the limitation specified in the new rule; that is, a party who has served 100 interrogatories prior to the effective date of the new rule is not given license by the new rule to serve another 75 after the effective date).

Finally, as suggested by the organization, the PTO will monitor the impact of this rule amendment carefully and further amend the rule to make it less restrictive, if circumstances warrant.

Comment: One individual and one firm commented, with respect to proposed §§ 2.120(g)(2) and 2.120(j)(3)(i), that there appeared to be significant errors in the text as published in the **Federal Register** and in the *Patent, Trademark & Copyright Journal.*

Response: The noted errors were made in printing, when several pages of original text were transposed. On April 4, 1989, a correction notice pertaining to those errors, among others, was printed in the **Federal Register** at 54 FR 13605. The errors did not appear in the text as published in the *Official Gazette.*

Comment: Section 2.123(e)(2), which pertains to the examination of witnesses during oral deposition, was proposed to be amended to include a new sentence stating that exhibits which are marked and identified at a deposition will be deemed to have been offered into evidence, without any formal offer thereof, unless the intention of the parties is clearly to the contrary. The purpose of the proposed amendment was to revise existing practice, which requires, on the part of the party marking the exhibits, either a formal offer or a clear indication in the transcript of an intent to introduce the exhibits. One individual commented that the clause "unless the intention of the parties is clearly to the contrary" is somewhat inaccurate and ambiguous. The individual suggested that the proposed clause be modified to read, "unless the intention of the party marking the exhibit is clearly expressed to the contrary."

Response: The paragraph has been modified as suggested.

Comment: One individual commented that he applauded the proposal to amend § 2.123(g)(1), which relates to the form of deposition transcripts, to permit the use of paper with numbered lines as an alternative to consecutively numbering the questions propounded to a witness, but suggested that the paragraph be amended further to delete another requirement, namely, the requirement that the name of the witness be plainly and conspicuously written at the top of each page. The individual questioned whether "it is necessary to still require that the name of the witness be written at the top of each page provided that the testimony of each witness is bound into one or more volumes separately from the testimony of any other witness and clearly marked on the cover and at the first and last to indicate the name of that particular witness." The individual noted that many of the reporters available for use in this type of proceeding are retired former court reporters who have established independent businesses, and "who do not have elaborate word processing which could perform that task automatically during printing."

Response: The appearance of the name of the witness at the top of each page of a deposition transcript is quite helpful to the Board. For example, sometimes litigants submit, in connection with a motion, copies of several selected pages from one or more deposition transcripts. In such cases, the name at the top of the page is sometimes the only means the Board has of determining whose testimony is on each page. Moreover, often, while drafting an opinion, it is necessary for a Board Member to refer repeatedly to a number of open deposition transcripts, and it would be inconvenient for the Board Member to have to keep turning to the front of the transcripts to verify the identity of the witness in each one. Accordingly, the suggestion has not been adopted.

Comment: With respect to § 2.127(e)(1), which was proposed to be added to provide that a motion for summary judgment should be filed prior to the commencement of the first testimony period, and that the Board, in its discretion, may deny as untimely any motion for summary judgment filed thereafter, the organization commented that the language does not take into account the possibility that the trial periods may be reset; and recommended that the problem be corrected by substituting the phrase "opening trial date" for the phrase "first testimony period."

Response: The phrase "opening trial date" is somewhat ambiguous since "trial date" might be construed by some litigants as referring to the date on which testimony is actually scheduled to be taken, rather than the date of the commencement of the testimony period. Moreover, it is not believed that the substitution of the phrase "opening trial date" for the phrase "first testimony period" would solve the problem perceived by the organization. It appears that the organization may have construed the phrase "first testimony period" as meaning the opening testimony period as first set, when in fact the phrase was intended to signify the opening testimony period of the plaintiff, as distinguished from other testimony periods, such as the testimony period of the defendant (particularly where the defendant is also the plaintiff in a counterclaim, in which case the testimony period of the defendant as defendant in the main proceeding and as plaintiff in the counterclaim could be argued to be the "opening testimony period" for purposes of the counterclaim), the rebuttal testimony period of the plaintiff, etc. In any event, in order to further clarify the paragraph, the phrase "as originally set or as reset" has been included in the amended paragraph immediately after the phrase "first testimony period." This should not be construed as meaning, however, that when the Board denies a motion for summary judgment as untimely filed, but resets the plaintiff's main (i.e., "first") testimony period, the motion may be refiled before the commencement of the period as reset, and considered timely. *See La Maur, Inc.* v. *Bagwells Enterprises, Inc., supra.*

Comment: Section 2.127(e)(2) was proposed to be added to provide that for purposes of summary judgment only a party may rely upon its own responses to discovery requests. The organization stated that it opposes this amendment "because it could lead to discovery abuses and will create conflicting treatment of a party's own answers to discovery, depending upon whether the case is resolved on summary judgment or after a trial on the merits." The organization also expressed its belief that although the proposed paragraph follows practice in the Federal district courts, the limited jurisdiction and sanctioning power of the Board "would tend to frustrate the self-policing effect of the rule as it operates in a federal court context." One individual commented that the proposed paragraph may mislead some lawyers into thinking that the filing, without more, of a party's own interrogatory answers, etc., in connection with a motion for summary judgment will make them probative; that rule 56(e) of the Federal Rules of Civil Procedure specifies certain requirements for affidavits submitted in connection with a summary judgment motion; that these requirements (namely, that the affidavits be made on personal knowledge, set forth such facts as would be admissible in evidence, and show

affirmatively that affiant is competent to testify to the matters stated therein) have been applied by the courts to answers to interrogatories filed in support of or in opposition to a summary judgment motion; and that the proposed paragraph should be modified to refer to these requirements, as, for example, by the addition of the phrase "and subject to the requirements of rule 56(e) of the Federal Rules of Civil Procedure" after the introductory phrase "For purposes of summary judgment only."

Response: It is noted that the specific discovery abuses feared were not enumerated. To the extent that the proposed practice would create conflicting treatment of a party's own responses to discovery, depending upon whether a case is resolved upon summary judgment or after trial on the merits, it is not believed that this is a matter of great concern. Indeed, there is precedent for such a conflict in the treatment of evidence. Under present practice, there is conflicting treatment of affidavit "testimony," which is not admissible at trial except by agreement of the parties (see § 2.123(b)), but is admissible for purposes of a motion for summary judgment (subject to the requirements of rule 56(e) of the Federal Rules of Civil Procedure).

Essentially, the matters raised by the organization and by the individual are factors to be considered by the Board in determining the probative value of a party's own discovery responses submitted for purposes of summary judgment. However, the proposed paragraph relates to the admissibility of this type of evidence, not to its probative value. The fact that a piece of evidence is admissible does not mean that it will necessarily be accorded great, or even any, probative value.

Over the years, many attorneys have argued, in briefs filed in connection with summary judgment motions, that a party's own discovery responses should be admissible for purposes of summary judgment. Under the circumstances, the paragraph is being adopted as proposed, without any modifications. However, the impact of the new rule will be monitored carefully, and the paragraph will be modified by future rulemaking, if necessary.

Comment: Section 2.128(b), which governs the form of briefs at final hearing, presently provides, in part, that without leave of the Board, no brief shall contain more than fifty pages of argument and, in the case of a reply brief, the entire brief shall not exceed twenty-five pages. The paragraph was proposed to be amended to provide that without prior leave of the Board, "a main brief on the case shall not exceed fifty-five pages in length in its entirety, including the table of contents, index of cases, description of the record, statement of the issues, recitation of facts, argument, and summary, and a reply brief shall not exceed twenty-five pages in its entirety." The two firms commented that the table of contents and index of cases should not be included in the page limitations for main briefs. They stated that these two elements do not actually constitute the brief, but clearly facilitate the use and reading of the brief, and hence are helpful to both the Board and the parties; that incorporation of these parts into the page limitation will encourage minimal use of these features; and that in most federal courts which have a limitation on the number of pages, these two elements are excluded from the limitation.

Response: The provision of present § 2.128(b), that no (main) brief shall contain more than fifty pages of argument, has always been deemed by the Board to exclude the table of contents and index of cases (as well as any attached exhibits or appendices, which are not considered to be part of the brief itself), but to include (the term "argument" being construed broadly) the description of the record, statement of the issues, recitation of facts, arguments based on the law and the facts, and summary. Because of confusion on the part of litigants and their attorneys as to which parts of the brief are included within the length limitation of the present provision, and for purposes of clarity, the paragraph was proposed to be amended to include all parts of the brief itself (again, any exhibits or appendices to the brief are not considered to be part of the brief). Since the proposed amendment included in the length limitation the two elements which had not been included before, namely, the table of contents and index of pages, the brief length limitation was proposed to be increased from fifty pages to fifty-five pages. It is believed that the allowance of an extra five pages is more than sufficient to cover the table of contents and index of cases in main briefs before the Board, and that a page limitation which is all-inclusive is simpler and less confusing than one which is not all-inclusive. Therefore, the suggested modification has not been adopted.

Comment: Section 2.142(b)(2) was proposed to be added to govern the form of briefs on the case in ex parte appeals before the Board. The proposed paragraph provides, in part, that without prior leave of the Board, a brief shall not exceed twenty-five pages in length in its entirety. The organization commented that the proposed provision would limit appeal briefs "to a maximum of 25 pages, including all appendices and exhibits;" that although the proposed rule allows a party to seek prior leave to file a more extensive brief, it is likely that the need to seek such leave will arise too frequently, with the result being a counter-productive rule; and that if a page limit is required, it should either be increased or clarified to exclude exhibits and appendices.

Response: Exhibits and appendices to a brief are not considered by the Board to be part of the brief, and hence are not included within the length limitation. However, the inclusion in the paragraph of a reference to exhibits and appendices to an appeal brief may mislead some litigants and/or their attorneys into believing that new evidence may be submitted with an appeal brief by way of an exhibit or appendix thereto, when, in fact, an applicant may submit new evidence after appeal only with the consent of the Examining Attorney or in accordance with the provisions of § 2.142(d). Accordingly, the suggested modification has not been adopted.

Comment: Section 2.142(f)(6) was proposed to be added to provide, in part, that "if, during an appeal from a refusal of registration, it appears to the examiner that an issue not involved in the appeal may render the mark of the appellant unregistrable, the examiner may request the Board to suspend the appeal and to remand the application to the examiner for further examination." The organization commented that the paragraph should be modified to specify that the Examining Attorney must file a written request and show good cause before an application will be remanded for examination; that the situations in which remand is allowed by the Board should be closely scrutinized; that after an applicant has submitted its appeal brief, for example, remand should be allowed, if at all, only in the most exceptional circumstances; and that when a requested remand is for the purpose of curing technical problems previously overlooked, the consent of the applicant shall be sought.

Response: The proposed paragraph, which codifies present practice, has been modified to specify that the Examining Attorney's request for remand must be written (as is, in fact, the practice). The remainder of the organization's suggestions, if adopted, would make it much more difficult for the Examining Attorney to obtain a remand of the application for purposes of further examination with respect to an issue not involved in the appeal.

However, it is in the interest of the public, the applicant, and the PTO to avoid the issuance of an invalid registration. Accordingly, the remainder of the organization's suggestions have not been adopted.

Comment: Section 2.145(c)(4) was proposed to be added to provide that a party to a proceeding before the Board who commences a civil action, pursuant to section 21(b) of the Act, seeking review of a decision of the Board must file written notice thereof in the PTO, addressed to the Board, within one month after the expiration of the time for appeal or civil action, in order to avoid premature termination of the Board proceeding. The organization commented that the proposed paragraph requires further clarification to define what is meant by the term "premature termination;" that depending on the meaning, the result of a "premature termination" may be too harsh, e.g., where a party may have otherwise perfected an appeal of a Board decision with the exception of having timely filed written notice of the proceeding with the Board; and the word "should" should be substituted for the word "must" in the proposed paragraph.

Response: When a decision of the Board has become final, that is, when the time for appeal therefrom has expired and no appeal has been filed, the PTO takes certain further steps, based on the final decision, including those steps necessary to give effect to the decision. This process is referred to as the "termination" of the proceeding. For example, when a decision of the Board dismissing an opposition has become final, the word "Terminated" is stamped on the file of the opposition proceeding, the opposition file is sent to the warehouse where terminated proceeding files are stored, and the registration sought by the applicant is issued. When a decision of the Board granting a petition for cancellation has become final, one of the further steps taken as a consequence thereof is the cancellation of the respondent's subject registration. If an "appeal" by way of civil action is taken from a decision of the Board, and the PTO is not notified, the PTO, believing the Board's decision to be final, will take the further steps which are appropriate based on the decision, i.e., the PTO will "terminate" the proceeding, not knowing that it is doing so prematurely.

The premature termination of a Board proceeding has no effect on the perfection of the "appeal" by way of civil action, and is not in the nature of a sanction, but rather occurs because the PTO has followed its normal procedures to give effect to a decision of the Board. The purpose of the proposed paragraph is simply to warn litigants who have filed a civil action seeking review of a decision of the Board that they need to give timely notice to the PTO of the filing of the civil action so that the PTO will not take steps to give effect to the Board's decision in the mistaken belief that it is final, when in fact it is not.

However, it is possible that in some cases where a written notice of the commencement of a civil action is filed shortly after the time specified in the rule, the PTO will not yet have terminated the proceeding, and therefore the written notice, even though somewhat untimely, will serve to avoid premature termination of the proceeding. For this reason, the paragraph has been modified as suggested by substituting the word "should" for the word "must."

The adoption of the suggestion that the proposed paragraph be clarified to define what is meant by the term "premature termination" would result in a rule which is unduly lengthy. Moreover, a detailed explanation of the meaning of the term has been given in this final rule notice.

Comment: Two individuals and one firm submitted suggestions for changes to rules not involved herein.

Response: The suggested changes cannot be adopted without affording members of the public an opportunity to comment thereon. However, these suggestions will be considered in connection with any future amendments to the rules of practice in trademark cases.

Environmental, Energy, and Other Considerations

The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Orders 12291 and 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). The rule change includes no additional or increased fees. Substantive rights to use valuable trademarks are not adversely affected.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect to the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The PTO has also determined that this notice has no federalism implications affecting the relationship between the National Government and the states as outlined in Executive Order 12612.

This rule contains collections of information subject to the Paperwork Reduction Act previously approved by OMB under ICB Number 0651–0009. Public reporting burden for this collection of information is estimated to average 25 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Commissioner of Patents and Trademarks, Washington, DC 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 37 CFR Part 2

Administrative practice and procedures, Courts, Lawyers, Trademarks.

Amendment of Regulations

For the reasons set forth in the preamble and pursuant to the authority contained in section 41 of the Trademark Act of July 5, 1946, as amended, part 2 of title 37 of the Code of Federal Regulations is amended as set forth below.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for Part 2 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 6, unless otherwise noted.

1a. Section 2.42 is revised to read as follows:

§ 2.42 Concurrent use.

An application for registration as a lawful concurrent user shall specify and contain all the elements required by the preceding sections. The applicant in addition shall state in the application the area, the goods, and the mode of use for which applicant seeks registration; and also shall state, to the extent of the applicant's knowledge, the concurrent lawful use of the mark by others, setting forth their names and addresses; registrations issued to or applications filed by such others, if any; the areas of such use; the goods on or in connection with which such use is made; the mode of such use; and the periods of such use.

2. Section 2.68 is revised to read as follows:

§ 2.68 Express abandonment (withdrawal) of application.

An application may be expressly abandoned by filing in the Patent and Trademark Office a written statement of abandonment or withdrawal of the application signed by the applicant, or the attorney or other person representing the applicant. Except as provided in § 2.135, the fact that an application has been expressly abandoned shall not, in any proceeding in the Patent and Trademark Office, affect any rights that the applicant may have in the mark which is the subject of the abandoned application.

3. Section 2.91 is amended by revising the section heading to read as follows:

§ 2.91 Declaration of interference.

* * * * *

4. Section 2.92 is revised to read as follows:

§ 2.92 Preliminary to interference.

An interference which has been declared by the Commissioner will not be instituted by the Trademark Trial and Appeal Board until the Examiner of Trademarks has determined that the marks which are to form the subject matter of the controversy are registrable, and all of the marks have been published in the Official Gazette for opposition.

5. Section 2.93 is revised to read as follows:

§ 2.93 Institution of interference.

An interference is instituted by the mailing of a notice of interference to the parties. The notice shall be sent to each applicant, in care of the applicant's attorney or other representative of record, if any, and if one of the parties is a registrant, the notice shall be sent to the registrant or the registrant's assignee of record. The notice shall give the name and address of every adverse party and of the adverse party's attorney or other authorized representative, if any, together with the serial number and date of filing and publication of each of the applications, or the registration number and date of issuance of each of the registrations, involved.

6. Section 2.104 is revised to read as follows:

§ 2.104 Contents of opposition.

(a) The opposition must set forth a short and plain statement showing why the opposer believes it would be damaged by the registration of the opposed mark and state the grounds for opposition. A duplicate copy of the opposition, including exhibits, shall be filed with the opposition.

(b) Oppositions to different applications owned by the same party may be joined in a consolidated opposition when appropriate, but the required fee must be included for each party joined as opposer for each class in which registration is opposed in each application against which the opposition is filed.

7. Section 2.106 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 2.106 Answer.

* * * * *

(b)(1) An answer shall state in short and plain terms the applicant's defenses to each claim asserted and shall admit or deny the averments upon which the opposer relies. If the applicant is without knowledge or information sufficient to form a belief as to the truth of an averment, applicant shall so state and this will have the effect of a denial. Denials may take any of the forms specified in Rule 8(b) of the Federal Rules of Civil Procedure. An answer may contain any defense, including the affirmative defenses of unclean hands, laches, estoppel, acquiescence, fraud, mistake, prior judgment, or any other matter constituting an avoidance or affirmative defense. When pleading special matters, the Federal Rules of Civil Procedure shall be followed. A reply to an affirmative defense need not be filed. When a defense attacks the validity of a registration pleaded in the opposition, paragraph (b)(2) of this section shall govern. A pleaded registration is a registration identified by number and date of issuance in an original notice of opposition or in any amendment thereto made under Rule 15, Federal Rules of Civil Procedure.

* * * * *

(c) The opposition may be withdrawn without prejudice before the answer is filed. After the answer is filed, the opposition may not be withdrawn without prejudice except with the written consent of the applicant or the applicant's attorney or other authorized representative.

8. Section 2.112 is amended by revising paragraph (a) to read as follows:

§ 2.112 Contents of petition for cancellation.

(a) The petition to cancel must set forth a short and plain statement showing why the petitioner believes it is or will be damaged by the registration, state the grounds for cancellation, and indicate, to the best of petitioner's knowledge, the name and address of the current owner of the registration. A duplicate copy of the petition, including exhibits, shall be filed with the petition.

* * * * *

9. Section 2.113 is revised to read as follows:

§ 2.113 Notification of cancellation proceeding.

When a petition for cancellation has been filed in proper form (see §§ 2.111 and 2.112), a notification shall be prepared by the Trademark Trial and Appeal Board, which shall identify the title and number of the proceeding and the registration or registrations involved and shall designate a time, not less than thirty days from the mailing date of the notification, within which an answer must be filed. A copy of the notification shall be forwarded to the attorney or other authorized representative of the petitioner, if any, or to the petitioner. The duplicate copy of the petition for cancellation and exhibits shall be forwarded with a copy of the notification to the respondent (see § 2.118), who shall be the party shown by the records of the Patent and Trademark Office to be the current owner of the registration or registrations sought to be cancelled, except that the Board, in its discretion, may join or substitute as respondent a party who makes a showing of a current ownership interest in such registration or registrations. When the party identified by the petitioner, pursuant to § 2.112(a), as the current owner of the registration or registrations is not the record owner thereof, a courtesy copy of the petition for cancellation shall be forwarded with a copy of the notification to the alleged current owner, which may file a motion to be joined or substituted as respondent. If the petition is found to be defective as to form, the party filing the petition shall be so advised and allowed

a reasonable time for correcting this informality.

10. Section 2.114 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 2.114 Answer.

* * * * *

(b)(1) An answer shall state in short and plain terms the respondent's defenses to each claim asserted and shall admit or deny the averments upon which the petitioner relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an averment, respondent shall so state and this will have the effect of a denial. Denials may take any of the forms specified in Rule 8(b) of the Federal Rules of Civil Procedure. An answer may contain any defense, including the affirmative defenses of unclean hands, laches, estoppel, acquiescence, fraud, mistake, prior judgment, or any other matter constituting an avoidance or affirmative defense. When pleading special matters, the Federal Rules of Civil Procedure shall be followed. A reply to an affirmative defense need not be filed. When a defense attacks the validity of a registration pleaded in the petition, paragraph (b)(2) of this section shall govern. A pleaded registration is a registration identified by number and date of issuance in an original petition for cancellation or in any amendment thereto made under Rule 15, Federal Rules of Civil Procedure.

* * * * *

(c) The petition for cancellation may be withdrawn without prejudice before the answer is filed. After the answer is filed, the petition may not be withdrawn without prejudice except with the written consent of the registrant or the registrant's attorney or other authorized representative.

11. Section 2.119 is amended by revising the section heading, paragraphs (b) and (c), and adding new paragraphs (d) and (e) to read as follows:

§ 2.119 Service and signing of papers.

* * * * *

(b) Service of papers must be on the attorney or other authorized representative of the party if there be such or on the party if there is no attorney or other authorized representative, and may be made in any of the following ways:

(1) By delivering a copy of the paper to the person served;

(2) By leaving a copy at the usual place of business of the person served, with someone in the person's employment;

(3) When the person served has no usual place of business, by leaving a copy at the person's residence, with a member of the person's family over 14 years of age and of discretion;

(4) Transmission by the "Express Mail Post Office to Addressee" service of the United States Postal Service or by first-class mail, which may also be certified or registered;

(5) Transmission by overnight courier.

Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining service or serving the paper is practicable, service may be by notice published in the *Official Gazette*.

(c) When service is made by first-class mail, "Express Mail," or overnight courier, the date of mailing or of delivery to the overnight courier will be considered the date of service. Whenever a party is required to take some action within a prescribed period after the service of a paper upon the party by another party and the paper is served by first-class mail, "Express Mail," or overnight courier, 5 days shall be added to the prescribed period.

(d) If a party to an inter partes proceeding is not domiciled in the United States and is not represented by an attorney or other authorized representative located in the United States, the party must designate by written document filed in the Patent and Trademark Office the name and address of a person residing in the United States on whom may be served notices or process in the proceeding. In such cases, official communications of the Patent and Trademark Office will be addressed to the domestic representative unless the proceeding is being prosecuted by an attorney at law or other qualified person duly authorized under § 10.14(c) of this subchapter. The mere designation of a domestic representative does not authorize the person designated to prosecute the proceeding unless qualified under § 10.14(a), or qualified under paragraph (b) or (c) of § 10.14 and authorized under § 2.17(b).

(e) Every paper filed in an inter partes proceeding, and every request for an extension of time to file an opposition, must be signed by the party filing it, or by the party's attorney or other authorized representative, but an unsigned paper will not be refused consideration if a signed copy is submitted to the Patent and Trademark Office within the time limit set in the notification of this defect by the Office.

12. Section 2.120 is amended by revising paragraphs (a), (d), (g), (j)(3), (j)(4), (j)(5), and (j)(8) to read as follows:

§ 2.120 Discovery.

(a) *In general.* The provisions of the Federal Rules of Civil Procedure relating to discovery shall apply in opposition, cancellation, interference and concurrent use registration proceedings except as otherwise provided in this section. The Trademark Trial and Appeal Board will specify the closing date for the taking of discovery. The opening of discovery is governed by the Federal Rules of Civil Procedure.

* * * * *

(d) *Interrogatories; request for production.* (1) The total number of written interrogatories which a party may serve upon another party pursuant to Rule 33 of the Federal Rules of Civil Procedure, in a proceeding, shall not exceed seventy-five, counting subparts, except that the Trademark Trial and Appeal Board, in its discretion, may allow additional interrogatories upon motion therefor showing good cause, or upon stipulation of the parties. A motion for leave to serve additional interrogatories must be accompanied by a copy of the interrogatories, if any, which have already been served by the moving party, and by a copy of the interrogatories proposed to be served. If a party upon which interrogatories have been served believes that the number of interrogatories served exceeds the limitation specified in this paragraph, and is not willing to waive this basis for objection, the party shall, within the time for (and instead of) serving answers and objections to the interrogatories, file a motion for a protective order, accompanied by a copy of the interrogatories which together are said to exceed the limitation.

(2) The production of documents and things under the provisions of Rule 34 of the Federal Rules of Civil Procedure will be made at the place where the documents and things are usually kept, or where the parties agree, or where and in the manner which the Trademark Trial and Appeal Board, upon motion, orders.

* * * * *

(g) *Sanctions.* (1) If a party fails to comply with an order of the Trademark Trial and Appeal Board relating to discovery, including a protective order, the Board may make any appropriate order, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, except that the Board does not have authority to hold any person in contempt or to award any expenses to any party. The Board may impose against a party any of the sanctions provided by this subsection in the event that said party or any

attorney, agent, or designated witness of that party fails to comply with a protective order made pursuant to Rule 26(c) of the Federal Rules of Civil Procedure.

(2) If a party, or an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or 31(a) of the Federal Rules of Civil Procedure to testify on behalf of a party, fails to attend the party's or person's discovery deposition, after being served with proper notice, or fails to provide any response to a set of interrogatories or to a set of requests for production of documents and things, and such party or the party's attorney or other authorized representative informs the party seeking discovery that no response will be made thereto, the Board may make any appropriate order, as specified in paragraph (g)(1) of this section.

* * * * *

(j) *Use of discovery deposition, answer to interrogatory, or admission.*

* * * * *

(3)(i) A discovery deposition, an answer to an interrogatory, or an admission to a request for admission, which may be offered in evidence under the provisions of paragraph (j) of this section may be made of record in the case by filing the deposition or any part thereof with any exhibit to the part that is filed, or a copy of the interrogatory and answer thereto with any exhibit made part of the answer, or a copy of the request for admission and any exhibit thereto and the admission (or a statement that the party from which an admission was requested failed to respond thereto), together with a notice of reliance. The notice of reliance and the material submitted thereunder should be filed during the testimony period of the party which files the notice of reliance. An objection made at a discovery deposition by a party answering a question subject to the objection will be considered at final hearing.

(ii) A party which has obtained documents from another party under Rule 34 of the Federal Rules of Civil Procedure may not make the documents of record by notice of reliance alone, except to the extent that they are admissible by notice of reliance under the provisions of § 2.122(e).

(4) If only part of a discovery deposition is submitted and made part of the record by a party, an adverse party may introduce under a notice of reliance any other part of the deposition which should in fairness be considered so as to make not misleading what was offered by the submitting party. A notice of reliance filed by an adverse party must be supported by a written statement explaining why the adverse party needs to rely upon each additional part listed in the adverse party's notice, failing which the Board, in its discretion, may refuse to consider the additional parts.

(5) An answer to an interrogatory, or an admission to a request for admission, may be submitted and made part of the record by only the inquiring party except that, if fewer than all of the answers to interrogatories, or fewer than all of the admissions, are offered in evidence by the inquiring party, the responding party may introduce under a notice of reliance any other answers to interrogatories, or any other admissions, which should in fairness be considered so as to make not misleading what was offered by the inquiring party. The notice of reliance filed by the responding party must be supported by a written statement explaining why the responding party needs to rely upon each of the additional discovery responses listed in the responding party's notice, failing which the Board, in its discretion, may refuse to consider the additional responses.

* * * * *

(8) Requests for discovery, responses thereto, and materials or dispositions obtained through the discovery process should not be filed with the Board except when submitted with a motion relating to discovery, or in support of or response to a motion for summary judgment, or under a notice of reliance during a party's testimony period. Papers or materials filed in violation of this paragraph may be returned by the Board.

13. Section 2.121 is amended by revising paragraph (a)(1) to read as follows:

§ 2.121 Assignment of times for taking testimony.

(a)(1) The Trademark Trial and Appeal Board will issue a trial order assigning to each party the time for taking testimony. No testimony shall be taken except during the times assigned, unless by stipulation of the parties approved by the Board, or, upon motion, by order of the Board. Testimony periods may be rescheduled by stipulation of the parties approved by the Board, or upon motion granted by the Board, or by order of the Board. The resetting of the closing date for discovery will result in the rescheduling of the testimony periods without action by any party. The resetting of a party's time to respond to an outstanding request for discovery will not result in the automatic rescheduling of the discovery and/or testimony periods; such dates will be rescheduled only upon stipulation of the parties approved by the Board, or upon motion granted by the Board, or by order of the Board.

* * * * *

14. Section 2.122 is amended by revising paragraph (e) to read as follows:

§ 2.122 Matters in evidence.

* * * * *

(e) *Printed publications and official records.* Printed publications, such as books and periodicals, available to the general public in libraries or of general circulation among members of the public or that segment of the public which is relevant under an issue in a proceeding, and official records, if the publication or official record is competent evidence and relevant to an issue, may be introduced in evidence by filing a notice or reliance on the material being offered. The notice shall specify the printed publication (including information sufficient to identify the source and the date of the publication) or the official record and the pages to be read; indicate generally the relevance of the material being offered; and be accompanied by the official record or a copy thereof whose authenticity is established under the Federal Rules of Evidence, or by the printed publication or a copy of the relevant portion thereof. A copy of an official record of the Patent and Trademark Office need not be certified to be offered in evidence. The notice of reliance shall be filed during the testimony period of the party that files the notice.

* * * * *

15. Section 2.123 is amended by revising paragraphs (c), (e)(2), and (g)(1) to read as follows:

§ 2.123 Trial testimony in inter partes cases.

* * * * *

(c) *Notice of examination of witnesses.* Before the depositions of witnesses shall be taken by a party, due notice in writing shall be given to the opposing party or parties, as provided in § 2.119(b), of the time when and place where the depositions will be taken, of the cause or matter in which they are to be used, and the name and address of each witness to be examined; if the name of a witness is not known, a general description sufficient to identify the witness or the particular class or group to which the witness belongs, together with a satisfactory explanation, may be given instead. Depositions may be noticed for any reasonable time and place in the United States. A deposition

may not be noticed for a place in a foreign country except as provided in paragraph (a)(2) of this section. No party shall take depositions in more than one place at the same time, nor so nearly at the same time that reasonable opportunity for travel from one place of examination to the other is not available.

* * * * *

(c) *Examination of witnesses.* * * *

(2) The deposition shall be taken in answer to questions, with the questions and answers recorded in their regular order by the officer, or by some other person (who shall be subject to the provisions of Rule 28 of the Federal Rules of Civil Procedure) in the presence of the officer except when the officer's presence is waived on the record by agreement of the parties. The testimony shall be taken stenographically and transcribed, unless the parties present agree otherwise. In the absence of all opposing parties and their attorneys or other authorized representatives, depositions may be taken in longhand, typewriting, or stenographically. Exhibits which are marked and identified at the deposition will be deemed to have been offered into evidence, without any formal offer thereof, unless the intention of the party marking the exhibits is clearly expressed to the contrary.

* * * * *

(g) *Form of deposition.* (1) The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The deposition may be written on legal-size or letter-size paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet. The questions propounded to each witness must be consecutively numbered unless paper with numbered lines is used, and each question must be followed by its answer.

* * * * *

16. Section 2.125 is amended by revising paragraph (a) to read as follows:

§ 2.125 Filing and service of testimony.

(a) One copy of the transcript of testimony taken in accordance with § 2.123, together with copies of documentary exhibits and duplicates or photographs of physical exhibits, shall be served on each adverse party within thirty days after completion of the taking of that testimony. If the transcript with exhibits is not served on each adverse party within thirty days or within an extension of time for the purpose, any adverse party which was not served may have remedy by way of a motion to the Trademark Trial and Appeal Board to reset such adverse party's testimony and/or briefing periods, as may be appropriate. If the deposing party fails to serve a copy of the transcript with exhibits on an adverse party after having been ordered to do so by the Board, the Board, in its discretion, may strike the deposition, or enter judgment as by default against the deposing party, or take any such other action as may be deemed appropriate.

* * * * *

17. Section 2.127 is amended by adding new paragraphs (e) and (f) to read as follows:

§ 2.127 Motions.

* * * * *

(e)(1) A motion for summary judgment should be filed prior to the commencement of the first testimony period, as originally set or as reset, and the Trademark Trial and Appeal Board, in its discretion, may deny as untimely any motion for summary judgment filed thereafter.

(2) For purposes of summary judgment only, a discovery deposition, or an answer to an interrogatory, or a document or thing produced in response to a request for production, or an admission to a request for admission, will be considered by the Trademark Trial and Appeal Board if any party files, with the party's brief on the summary judgment motion, the deposition or any part thereof with any exhibit to the part that is filed, or a copy of the interrogatory and answer thereto with any exhibit made part of the answer, or a copy of the request for production and the documents or things produced in response thereto, or a copy of the request for admission and any exhibit thereto and the admission (or a statement that the party from which an admission was requested failed to respond thereto).

(f) The Board does not have authority to hold any person in contempt, or to award attorneys' fees or other expenses to any party.

18. Section 2.128 is amended by revising paragraph (b) to read as follows:

§ 2.128 Briefs at final hearing.

* * * * *

(b) Briefs shall be submitted in typewritten or printed form, double spaced, in at least pica or eleven-point type, on letter-size paper. Each brief shall contain an alphabetical index of cases cited therein. Without prior leave of the Trademark Trial and Appeal Board, a main brief on the case shall not exceed fifty-five pages in length in its entirety, including the table of contents, index of cases, description of the record, statement of the issues, recitation of facts, argument, and summary; and a reply brief shall not exceed twenty-five pages in its entirety. Three legible copies, on good quality paper, of each brief shall be filed.

19. Section 2.129 is amended by revising paragraph (a) to read as follows:

§ 2.129 Oral argument; reconsideration.

(a) If a party desires to have an oral argument at final hearing, the party shall request such argument by a separate notice filed not later than ten days after the due date for the filing of the last reply brief in the proceeding. Oral arguments will be heard by at least three Members of the Trademark Trial and Appeal Board at the time specified in the notice of hearing. If any party appears at the specified time, that party will be heard. If the Board is prevented from hearing the case at the specified time, a new hearing date will be set. Unless otherwise permitted, oral arguments in an inter partes case will be limited to thirty minutes for each party. A party in the position of plaintiff may reserve part of the time allowed for oral argument to present a rebuttal argument.

* * * * *

20. Section 2.134 is amended by revising paragraph (a) to read as follows:

§ 2.134 Surrender or voluntary cancellation of registration.

(a) After the commencement of a cancellation proceeding, if the respondent applies for cancellation of the involved registration under section 7(d) of the Act of 1946 without the written consent of every adverse party to the proceeding, judgment shall be entered against the respondent. The written consent of an adverse party may be signed by the adverse party or by the adverse party's attorney or other authorized representative.

* * * * *

21. Section 2.135 is revised to read as follows:

§ 2.135 Abandonment of application or mark.

After the commencement of an opposition, concurrent use, or interference proceeding, if the applicant files a written abandonment of the application or of the mark without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant. The written consent of an adverse party may

be signed by the adverse party or by the adverse party's attorney or other authorized representative.

22. Section 2.142 is amended by adding paragraph (f)(6); and revising paragraphs (b) and (e)(1), to read as follows:

§ 2.142 Time and manner of ex parte appeals.

* * * * *

(b)(1) The brief of appellant shall be filed within sixty days from the date of appeal. If the brief is not filed within the time allowed, the appeal may be dismissed. The examiner shall, within sixty days after the brief of appellant is sent to the examiner, file with the Trademark Trial and Appeal Board a written brief answering the brief of appellant and shall mail a copy of the brief to the appellant. The appellant may file a reply brief within twenty days from the date of mailing of the brief of the examiner.

(2) Briefs shall be submitted in typewritten or printed form, double spaced, in at least pica or eleven-point type, on letter-size paper. Without prior leave of the Trademark Trial and Appeal Board, a brief shall not exceed twenty-five pages in length in its entirety.

* * * * *

(e)(1) If the appellant desires an oral hearing, a request therefor should be made by a separate notice filed not later than ten days after the due date for a reply brief. Oral argument will be heard by at least three Members of the Trademark Trial and Appeal Board at the time specified in the notice of hearing, which may be reset if the Board is prevented from hearing the argument at the specified time or, so far as is convenient and proper, to meet the wish of the appellant or his attorney or other authorized representative.

* * * * *

(f) * * *

(6) If, during an appeal from a refusal of registration, it appears to the examiner that an issue not involved in the appeal may render the mark of the appellant unregistrable, the examiner may, by written request, ask the Board to suspend the appeal and to remand the application to the examiner for further examination. If the request is granted, the examiner and appellant shall proceed as provided by §§ 2.61, 2.62, 2.63 and 2.64. After the additional ground for refusal of registration has been withdrawn or made final, the examiner shall return the application to the Board, which shall resume proceedings in the appeal and take further appropriate action with respect thereto.

* * * * *

23. Section 2.145 is amended by adding new paragraph (c)(4) to read as follows:

§ 2.145 Appeal to court and civil action.

* * * * *

(c) * * *

(4) A party to a proceeding before the Trademark Trial and Appeal Board which commences a civil action, pursuant to section 21(b) of the Act, seeking review of a decision of the Board should file written notice thereof in the Patent and Trademark Office, addressed to the Board, within one month after the expiration of the time for appeal or civil action, in order to avoid premature termination of the Board proceeding.

* * * * *

24. Section 2.186 is revised to read as follows:

§ 2.186 Action may be taken by assignee of record.

Any action with respect to an assigned application or registration which may or must be taken by an applicant or registrant may be taken by the assignee provided that the assignment has been recorded or that proof of the assignment has been submitted.

Dated: July 6, 1989.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 89-19622 Filed 8-21-89; 8:45 am]

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federal register

Tuesday
August 22, 1989

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

High Density Traffic Airports; Slot Allocation and Transfer Methods; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 25758; Amdt. No. 93-56]

High Density Traffic Airports Slot Allocation and Transfer Methods

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action makes several technical amendments to the regulations pertaining to the allocation and transfer of air carrier and commuter operator slots (i.e., allocated instrument flight rules (IFR) takeoff and landing reservations) at Kennedy International Airport, LaGuardia Airport, O'Hare International Airport, and Washington National Airport. First, the rule adopted provides that slots generally will not be withdrawn from carriers holding eight or fewer slots if the holding carrier itself operates the slots. The addition of an operating requirement to the existing rule prevents small incumbent carriers from using their protected status to protect slots actually used by larger incumbent carriers. The rule adopted also changes the maximum passenger seating capacity authorized for operations in "schedule commuter" slots from "less than 56" seats to "less than 75" seats in order to allow more economical and advances aircraft to be used in providing service to small communities. Finally, this action changes the definition of "summer season" and "winter season" to conform to the current legal definition of Daylight Savings Time and Local Standard Time.

EFFECTIVE DATE: September 21, 1989.

FOR FURTHER INFORMATON CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone: (202) 267-3491

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267-8058. Communications must identify the amendment number of the document.

Background

The High Density Traffic Airports Rule (14 CFR part 93, subpart K) limits the number of operations during certain hours or half hours at four airports: Kennedy International, LaGuardia, O'Hare International, and Washington, National. Comprehensive rules for the allocation and transfer of High Density Airport slots were adopted in December 1985 (14 CFR part 93, subpart S). A "slot" is defined as the authority to conduct one allocated IFR landing or takeoff operation during a specific hour or 30-minute period at one of the High Density Airports.

Notice of Proposed Rulemaking 88-18

On December 16, 1988, the Department of Transportation issued Notice of Proposed Rulemaking 88-18 (53 FR 51826, December 22, 1988; corrected 54 FR 831 and 54 FR 3079). In that notice, the Department denied the petition of America West Airlines to withdraw slots from incumbent carriers at National and LaGuardia Airports and reallocate those slots to new entrants and smaller incumbent carrriers.

Second, the Department proposed for discussion six issues relating to the effect of the slot restrictions on competition and market entry, as required by section 149 of Pub. L. 100-457.

Finally, the Notice proposed two specific amendments to the current slot rules. The first proposal was that slots will not be withdrawn from a carrier with eight or fewer slots, except for failure to use the slots, if the carrier itself uses the slots held. This proposal was intended to prevent the current practice by which large carriers transfer vulnerable slots (i.e., slots with a low withdrawal priority number) to carriers holding fewer than eight slots, and lease the slots back for operation. The second amendment proposed in the Notice was to increase the slot-use requirements for carriers holding a substantial number of slots in certain hours or half-hours to further reduce the retention of unused slots.

DOT has under consideration additional or alternate measures for slot allocation to new entrant and limited incumbent carriers and alternate requirements for slot use. It is anticipated that many of the issues raised in Notice 88-18 could require further rulemaking at the proposal stage and, therefore, are not addressed in this final rule.

Discussion of Comments

Twenty-six comments were received in response to Notice 88-18, including supplemental comments filed by Air Wisconsin, the Regional Airline Association, and the City of Chicago Department of Aviation.

Separate Air Carrier and Commuter Slot Categories

Section 93.123(c) of the Federal Aviation Regulations (14 CFR part 93, subpart K) establishes the maximum passenger seating capacity, for the purposes of § 93.123(a), as 56 seats or more for "air carriers," and less than 56 seats for "scheduled commuters."

Notice 88-18. Of those commenters addressing the underlying issue of the distinction between commuter and air carrier slots, Pan Am, Pan Am Express, the Regional Airline Association, and several other carriers stated that the practice of carrier slots being operated by commuters is necessary to maintain scheduling flexibility. American, Pan Am, Pan Am Express, and the Regional Airline Association also stated that scheduling flexibility could be increased by eliminating this distinction altogether. While USAir/Piedmont argued that the elimination of the distinction would threaten service to small markets, American suggested that removing this distinction would enhance such service. Air Wisconsin noted that a flat prohibition on the use of commuter aircraft in air carrier slots would unfairly penalize carriers that operate both types of aircraft as a single entity.

Pan Am, Pan Am Express, and the Regional Airline Association, and several of its individual members further noted that the types of aircraft which can use commuter slots should be expanded in response to the needs of smaller communities where traffic has increased significantly. These commenters argued that the 56-seat limit contained in the definitions of "air carrier" and "scheduled commuter operator" under § 93.123(c) is based on the types of aircraft that were available at the time of the adoption of the High Density Rule in 1969. Since that time, new aircraft have been developed which have more than 60 seats, but are still properly considered "commuter" aircraft for the purposes of § 93.123(c) due to their limited range and cruise speed.

Air Wisconsin petition for exemption. In addition to the request for comments on the distinction between air carrier and commuter slots in Notice 88-18, the FAA received separate petitions from British Aerospace and Air Wisconsin, which were published in the **Federal Register** on April 12, 1988 (53 FR 12092) and March 31, 1989 (54 FR 13344), respectively. The petitioners requested the FAA to authorize the use of aircraft

having 60 and 64 seats, respectively, or less in "scheduled commuter" slots in order to allow more economical and advanced aircraft to be used in providing service to smaller communities. Air Wisconsin noted that traffic on the routes which serve these communities routinely exceeds the capacity of 50-seat aircraft.

The British Aerospace petition was denied on August 15, 1988, because British Aerospace, as an aircraft manufacturer, was found to be not eligible for an exemption from an operating rule and because the FAA considered the issue to be more appropriate for resolution by general rulemaking. However, the FAA did not take issue with the substantive justification raised in the British Aerospace petition.

Numerous comments were received in support of the Air Wisconsin petition, including several congressional responses, and comments filed by airport authorities, municipalities, chambers of commerce, and state transportation departments. With the exception of Pan Am Express, none of the carrier commenters were specifically opposed to the petition. Most, however, shared Pan Am Express's view that the FAA should treat the Air Wisconsin petition as a petition for rulemaking and amend part 93, subpart K of the Federal Aviation Regulations.

Therefore, in view of the comments requesting that larger aircraft be permitted to use commuter slots, and in consideration of the fact that such a higher seat limit (in conjunction with a limitation to propeller-driven aircraft) has no significant effect on the regional airline industry and the service to small communities provided by that industry, the FAA is amending § 93.123(c) of subpart K of the Federal Aviation Regulations to change the maximum passenger seating capacity authorized for operations in "scheduled commuter" slots from "less than 56 [seats]" to "less than 75 [seats]," with a limitation to reciprocating and turboprop aircraft. The 75-seat limit will allow for anticipated seating configurations of all aircraft in this category. The limitation to propeller-driven aircraft provides a clear distinction between commuter aircraft and the turbojet aircraft used for longer routes and higher volume markets.

Although the 75-seat maximum passenger seating capacity that is being adopted in this final rule was not expressly proposed in Notice 88–18, the Notice requested comments on the use of air carrier slots using commuter aircraft, and the agency sought and received public comment on the issue by publication of the Air Wisconsin petition in the **Federal Register**. This amendment represents final agency action on the Air Wisconsin petition for exemption and Air Wisconsin's request for rulemaking filed in its supplemental comments on Notice 88–18.

Withdrawal of Slots From Carriers Holding 8 or Fewer Slots

Section 93.223(f) of the Federal Aviation Regulations (14 CFR part 93, subpart S) currently provides that slots will not be withdrawn from an air carrier or commuter operator holding eight or fewer slots at an airport (not counting international slots). Notice 88–18 proposed to add a use requirement to this provision so that the exception from withdrawal would only apply to slots used by the holding carrier, and would clarify that the protection does not apply to withdrawal for nonuse under § 93.227(a)(1). The use requirement would prohibit the current practice by larger carriers of transferring vulnerable slots (i.e., slots with a low withdrawal priority number) to a carrier with fewer than eight slots, then leasing the slot back for operation.

Although the Regional Carrier Slotholders stated that the practice by which carriers in effect "hide" their most vulnerable slots as described above is not widespread, several commenters expressed dissatisfaction over this practice. America West argued that this practice is inconsistent with the use-or-lose provisions of the Buy/Sell Rule. The FAA notes that there was little specific opposition to the proposal which would prohibit the withdrawal of slots from carriers holding and using fewer than eight slots. The Airport Operators Council International, USAir, Piedmont, Midwest Express, and United all specifically noted their lack of objection and/or support of this proposal.

In consideration of the need to protect carriers with limited slot holdings while maintaining opportunities for market entry, and in the interest of preventing carriers from circumventing the withdrawal provisions of the slot transfer and allocation rules, the FAA is amending § 93.223(f) to provide that slots shall not be withdrawn from an air carrier or commuter operator holding and using fewer than eight slots, excluding withdrawal under § 93.217(a)(1).

Summer/Winter Season Dates

As part of this action, the FAA is correcting a reference to seasonal designations which currently correspond to an obsolete definition of the Daylight Savings Time period. Section 93.217 of the Federal Aviation Regulations (14 CFR part 93, subpart S) establishes procedures for the allocation of slots to U.S. and foreign air carriers for international operations at the High Density Airports. The procedures apply primarily at Kennedy International and O'Hare International Airports.

At Kennedy and O'Hare Airports, international slots are allocated in accordance with seasonal designations, as defined in § 93.213, with specific slot operations being designated as either summer or winter slots. The seasonal allocations correspond to the beginning and ending of the Daylight Savings and Local Standard Time periods.

The date on which Local Standard Time changes to Daylight Savings Time in the spring was changed by Congress on July 8, 1986 (Pub. L. 99–359, 100 Stat. 764). Previously, Daylight Savings Time extended from the fourth Sunday in April to the fourth Sunday in October, while the Local Standard Time period extended from the fourth Sunday in October to the fourth Sunday in April. The Daylight Savings Time period now extends from the first Sunday in April to the fourth Sunday in October while the Local Standard Time period extends from the fourth Sunday in October to the first Sunday in April.

The purpose of this amendment, therefore, is simply to amend the seasonal time designations in the rule to reflect the current changeover date (i.e., from Local Standard Time to Daylight Savings Time) of the first Sunday in April. The change is adopted without prior notice and comment because it represents a minor technical amendment on which there would be little interest in commenting. Accordingly, I find that notice and public comment under 5 U.S.C. 553(b) is unnecessary.

The Rule Adopted

For the reasons discussed above, the FAA is amending the regulations governing transfer and allocation of slots at high density traffic airports to do the following:

1. Increase the maximum passenger seating capacity authorized under § 93.123(c) for operations in "scheduled commuter" slots from "less than 56 [seats]" to "less than 75 [seats]," with a limitation to reciprocating and turboprop aircraft.

2. Provide that slots shall not be withdrawn from an air carrier or commuter operator holding fewer than eight slots if that carrier is itself operating the slots, excluding withdrawal under § 93.217(a)(1).

3. Change the time designations in the rule for the summer and winter

scheduling seasons to reflect the current changeover date from Local Standard Time to Daylight Savings Time.

Regulatory Evaluation

The changes contained in this rulemaking with respect to the maximum passenger seating capacity authorized for operations using commuter slots will have no effect on the actual operations of carriers currently using aircraft having fewer than 56 seats in these slots. With the adoption of this final rule, these carriers will have the operational flexibility to respond to traffic increases, market considerations, and other related factors by replacing and/or supplementing their fleets with aircraft having slightly higher maximum passenger seating capacities.

With respect to the changes adopted in the withdrawal provisions of FAR § 93.227(a), the FAA will not withdraw any slot that is held and operated by a carrier holding eight or fewer slots. It is unlikely that slots would be withdrawn from carriers holding fewer than eight slots and not operating those slots. Rather, those carriers would simply terminate the sale and leaseback arrangements currently in effect. The potential cost to these carriers, therefore, is only the speculative loss of lease income from slots the carrier did not intend to use.

Finally, the changes in the definition of "summer season" and "winter season" to conform to the legal definition of Daylight Savings Time and Local Standard Time will affect only scheduling requests for international operations by U.S. and foreign air carriers at Kennedy and O'Hare Airports. Actual operations are similarly unaffected by this change in designation. Air carriers will not experience any benefit or cost as a result of this rule, except for a minor administrative benefit in submitting flight schedule requests based on the actual time change time between Standard Time and Daylight Savings Time.

Regulatory Flexibility Analysis

As discussed above under Regulatory Evaluation, the impact on all operators will be minimal, and there will be no disproportionate impact on smaller operators. Accordingly, the FAA has determined that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

For the reasons set forth above, the FAA has determined that this amendment (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Further, I certify that under the criteria of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This amendment provides for no changes to the required reporting of information by air carrier and commuter operators to the FAA. Under the requirements of the Federal Paperwork Reduction Act, the Office of Management and Budget previously has approved the information collection provison of subpart S. OMB Approval Number 2120–0524 has been assigned to subpart S.

Federalism Determination

The amendment set forth herein would 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 regulation does not have federalism implications warranting the preparation of Federalism Assessment.

List of Subjects in 14 CFR Part 93

Aviation safety, Air traffic control.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 93 of the Federal Aviation Regulations (14 CFR part 93) is amended as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2402, and 2424; 49 U.S.C. 106 (Revised Pub. L. 97–449, January 12, 1983).

2. In § 93.123, paragraph (c) is revised to read as follows:

§ 93.123 High density traffic airports.

* * * * *

(c) For purpose of this subpart—

(1) The number of operations allocated to "air carriers except commuters," under paragraph (a) of this section and § 93.127, refers to the number of operations conducted by air carriers with turbojet aircraft or any aircraft having a certificated maximum passenger seating capacity of 75 or more or, if used for cargo service in air transportation, with aircraft having a maximum payload capacity of 18,000 pounds or more.

(2) The number of operations allocated to "scheduled commuters," as used in paragraph (a) of this section and § 93.124, refers to the number of operations conducted by air carriers with turboprop or reciprocating engine aircraft having a certificated maximum passenger seating capacity of less than 75 or, if used for cargo service in air transportation, with aircraft having a maximum payload capacity of less than 18,000 pounds.

3. In § 93.213, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 93.213 Definitions and general provisions.

(a) * * *

(3) *Summer season* means the period of time from the first Sunday in April until the fourth Sunday in October.

(4) *Winter season* means the period of time from the fourth Sunday in October until the first Sunday in April.

* * * * *

4. In § 93.223, paragraph (c)(3) is added to read as follows:

§ 93.223 Slot withdrawal.

* * * * *

(c) * * *

(3) Except as provided in § 93.227(a), the FAA shall not withdraw any slot held and operated by an air carrier or commuter operator at an airport if that air carrier or commuter operator holds eight or fewer slots at that airport (excluding slots used for operations described in § 93.217(a)(1)).

* * * * *

Issued in Washington, DC, on August 15, 1989.

Samuel K. Skinner,

Secretary, Department of Transportation.

[FR Doc. 89–19726 Filed 8–17–89; 1:46 pm]

BILLING CODE 4910-13-M

federal register

Tuesday
August 22, 1989

Part VI

Congressional Budget Office

Initial Sequestration Report for Fiscal Year 1990 to Office of Management and Budget and Congress; Transmittal

CONGRESSIONAL BUDGET OFFICE

Initial Sequestration Report for Fiscal Year 1990 to Office of Management and Budget and Congress; Transmittal

AGENCY: Congressional Budget Office.

ACTION: Report transmittal.

SUMMARY: This notice transmits the initial sequestration report for Fiscal Year 1990 to the Office of Management and Budget and the Congress in accordance with the procedures of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Public Law 100–119.

Stanley L. Greigg,

Director, Office of Intergovernmental Relations, Congressional Budget Office.

BILLING CODE 1450-01-M

INITIAL SEQUESTRATION REPORT FOR FISCAL YEAR 1990

A Congressional Budget Office
Report to the Congress
and the Office of Management and Budget

August 21, 1989

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NOTES

All years referred to in this report are fiscal years, unless otherwise noted.

Details in the text and tables of this report may not add to totals because of rounding.

The Balanced Budget and Emergency Deficit Control Act of 1985 (commonly known as Gramm-Rudman-Hollings) is referred to in this report more briefly as the Balanced Budget Act.

The source for all data in this report is the Congressional Budget Office, unless otherwise noted.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Robert D. Reischauer
Director

August 21, 1989

Honorable Richard G. Darman
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Darman:

I herewith submit to you my *Initial Sequestration Report for Fiscal Year 1990*, in accordance with the Balanced Budget and Emergency Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119).

Based on our updated economic and technical assumptions and on budgetary policies in effect on August 15, 1989, we estimate that the budget deficit in fiscal year 1990 will reach $141.5 billion, which exceeds by $41.5 billion the $100 billion target specified in the act.

This report presents the assumptions underlying CBO's deficit estimate, and calculates the amounts and percentages by which various budgetary resources would need to be sequestered to reduce the deficit to the target level under these assumptions.

I would be pleased to provide you with any assistance that you may require in preparing your own initial sequestration report.

Sincerely yours,

Robert D. Reischauer
Director

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Robert D. Reischauer
Director

August 21, 1989

Honorable Dan Quayle
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I herewith submit to the Congress my *Initial Sequestration Report for Fiscal Year 1990*, in accordance with the requirements of the Balanced Budget and Emergency Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119).

The act specifies a 1990 deficit target of $100 billion. An across-the-board reduction of budgetary resources will be triggered if the deficit estimate made by the Office of Management and Budget exceeds the target by more than $10 billion. Based on our updated economic and technical assumptions and on budgetary policies in effect on August 15, 1989, we estimate that the budget deficit in fiscal year 1990 will reach $141.5 billion, which exceeds the target by $41.5 billion.

This report presents the assumptions underlying CBO's deficit estimate, and calculates the amounts and percentages by which various budgetary resources would need to be sequestered to reduce the deficit to the target level under these assumptions.

I would be pleased to provide the Congress with any assistance it may require in responding to this report, or to the initial report by the Director of the Office of Management and Budget.

Sincerely yours,

Robert D. Reischauer
Director

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Robert D. Reischauer
Director

August 21, 1989

Honorable Thomas S. Foley
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I herewith submit to the Congress my *Initial Sequestration Report for Fiscal Year 1990*, in accordance with the requirements of the Balanced Budget and Emergency Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119).

The act specifies a 1990 deficit target of $100 billion. An across-the-board reduction of budgetary resources will be triggered if the deficit estimate made by the Office of Management and Budget exceeds the target by more than $10 billion. Based on our updated economic and technical assumptions and on budgetary policies in effect on August 15, 1989, we estimate that the budget deficit in fiscal year 1990 will reach $141.5 billion, which exceeds the target by $41.5 billion.

This report presents the assumptions underlying CBO's deficit estimate, and calculates the amounts and percentages by which various budgetary resources would need to be sequestered to reduce the deficit to the target level under these assumptions.

I would be pleased to provide the Congress with any assistance it may require in responding to this report, or to the initial report by the Director of the Office of Management and Budget.

Sincerely yours,

Robert D. Reischauer
Director

INITIAL SEQUESTRATION REPORT FOR FISCAL YEAR 1990

A CONGRESSIONAL BUDGET OFFICE REPORT TO THE CONGRESS AND THE OFFICE OF MANAGEMENT AND BUDGET

August 21, 1989

SUMMARY

Though the federal government's budget deficit has retreated from the steep levels that prompted the enactment of the Balanced Budget Act four years ago, the deficit will not drop enough under current policies to meet the act's 1990 target, according to calculations prepared by the Congressional Budget Office (CBO). The deficit target specified by the Balanced Budget Act for 1990 is $100 billion, and CBO currently projects a federal budget deficit of $141.5 billion. If CBO's estimates were controlling, and if no further changes were made in taxing and spending policies, across-the-board reductions of 10.7 percent in defense and 15.6 percent in nondefense programs would be required to achieve the target. On August 25, 1989, the Director of the Office of Management and Budget (OMB) will issue an initial independent estimate of the projected deficit, and will determine the necessity of across-the-board spending cuts. Based on the Administration's *Mid-Session Review of the 1990 Budget* and laws enacted since July 18, 1989, it appears that OMB's initial estimate will exceed the target by about $16 billion.

INTRODUCTION

The Balanced Budget Act became law in December 1985 and established a series of annual budget deficit targets for the federal government that would lead to a balanced budget over five years. As amended in 1987, the Balanced Budget Act eased these annual targets and delayed the attainment of a balanced budget by one year, to fiscal year 1993. The deficit targets specified by the act are (in billions of dollars):

Fiscal Year	Maximum Deficit	Sequestration Threshold
1990	100	110
1991	64	74
1992	28	38
1993	0	0

For the years 1989 through 1992, the deficit projection may exceed the target by as much as $10 billion. If the Administration's deficit projection exceeds the target by more than this $10 billion margin, the act provides a procedure--known as sequestration--to cut federal spending automatically. For 1993, sequestration would be triggered if any deficit is estimated in the Administration's October 15, 1992, report.

Sequestration involves the permanent cancellation of new budget authority and other authority to obligate and expend funds, except for special and trust funds, where the sequestered amounts of spending authority remain in the funds. The sequestration of budgetary resources is designed to achieve outlay reductions sufficient to reach the annual deficit targets.

The Balanced Budget Act specifies roles for the Congressional Budget Office, the Office of Management and Budget, and the Comptroller General. CBO's role is to advise OMB and the Congress, while the Director of OMB must determine whether or not sequestration is necessary and, if so, the amount of reductions in budgetary resources and outlays required to achieve the deficit target. Each year, CBO and OMB are required to prepare independently two sets of sequestration reports. The CBO reports, which are transmitted to the Director of OMB and to the Congress, are a benchmark against which the Congress and others may assess the OMB reports. The OMB reports, which are made to the President and to the Congress, provide the basis for sequestration orders to be issued by the President. The timetable for the agency reports and sequestration orders is shown on page 3.

The initial CBO and OMB sequestration reports are based on laws that are enacted and regulations that are final at the time of a common snapshot date, August 15. The revised reports, however, must be based on laws enacted and regulations promulgated by the latest possible date before they are issued. Therefore, because the snapshot date may be

TABLE 1. SUMMARY OF CBO BUDGET ESTIMATES FOR FISCAL YEAR 1990
(In billions of dollars)

	Revenues	Outlays	Deficit
Budget Baseline as of January 1, 1989	1,070.8	1,206.4	135.5
Effect of New Laws and Regulations:			
Financial Institutions Reform, Recovery, and Enforcement Act (P.L. 101-73)	0.6	2.9	2.3
Dire Emergency Supplemental Appropriations Act of 1989 (P.L. 101-45)	0.0	0.9	0.9
Disaster Assistance Act of 1989 (P.L. 101-82)	0.0	1.0	1.0
Other	0.0	-0.1	-0.1
Debt service costs	0.0	1.5	1.5
Subtotal	0.6	6.1	5.5
Budget Baseline as of August 15, 1989	1,071.4	1,212.5	141.0
Exclude Rural Electrification Administration Loan Prepayments			0.5
Balanced Budget Act Deficit Estimate			141.5
Balanced Budget Act Deficit Target			100.0
Excess Deficit			41.5

different in the two agencies' final reports, some legislation and regulations reflected in one report may not be reflected in the other.

The role of the Comptroller General under the amended Balanced Budget Act is threefold: to prepare a report each year to the Congress and the President that certifies whether the final sequestration order issued by the President complies with the requirements of the Balanced Budget Act; to assess the compliance and accuracy of the OMB sequestration reports; and to make recommendations for improving sequestration procedures. The Comptroller's report is due on November 15.

This document is the initial CBO report for 1990. The report:

- Estimates budget baseline levels as of January 1, 1989, and August 15, 1989, the amount of net deficit change that has occurred between the two dates, and the outlay reductions required for 1990;
- Provides CBO economic assumptions used for the two baseline estimates, including the estimated rate of real economic growth for fiscal year 1990 by quarter; and
- Calculates the amounts and percentages by which various budgetary resources must be sequestered in order to achieve the required outlay reductions.

BUDGET BASELINE TOTALS

The CBO budget baseline estimates of total revenues, outlays, and the deficit for fiscal year 1990 are shown in Table 1. Two sets of budget baseline estimates are provided--one for laws and regulations in effect on January 1, 1989, and the other for laws and regulations in effect on August 15, 1989. The economic and technical assumptions used for the August 15 budget baseline estimates are identical to those used for the January 1 estimates. The differences between the two sets of estimates, therefore, result only from laws enacted and final regulations promulgated since January 1.

These estimates are made in accordance with the specifications set forth in the Balanced Budget Act.

When appropriations for the new fiscal year have not been enacted--and, as of August 15, none of the 1990 appropriation bills had been completed--the CBO and OMB budget baseline estimates under the act are to be based on the appropriations enacted for the previous year, with an adjustment for inflation and increased pay costs. The act specifies the inflation adjustment as the estimated annual increase in the gross national product implicit price deflator, estimated by CBO to be 4.4 percent. For 70 percent of personnel costs, this inflation factor is increased to allow for higher agency retirement costs and for pay absorption in the previous fiscal year, and is reduced to account for pay absorption in the upcoming fiscal year.

For nonappropriated spending accounts and revenues, the baseline estimates assume that current laws and regulations will continue unchanged, and that expiring provisions of law will terminate as scheduled. The Balanced Budget Act, however, provides an exception to the general treatment of expiring provisions in the cases of excise taxes dedicated to trust funds, Commodity Credit Corporation agricultural price support programs, and contract authority for transportation trust funds. As required by the act, the budget baseline estimates include the receipts and outlays of the Social Security trust funds, even though they are legally off-budget.

The Balanced Budget Act provides that asset sales and loan prepayments shall neither be included in the budget baseline estimates nor count toward any net deficit reduction. The act makes an exception for asset sales and loan prepayments that are routine and ongoing according to the practices followed in fiscal year 1986 and for asset sales mandated by law as of September 17, 1987. The budget baseline estimates may not, however, assume or reflect an acceleration of routine asset sales or loan prepayments. As Table 1 shows, $0.5 billion in prepayments of Rural Electrification Administration loans is expected in fiscal year 1990 and is excluded from the CBO baseline.

The act also prohibits the inclusion of savings resulting from the transfer of outlays, receipts, or revenues from one year to an adjacent year, except for certain types of transfers identified in law. No such savings apply to fiscal year 1990. The prohibition of timing shifts does not apply to the advancing of certain farm deficiency payments into 1989 or to the shifting of the October 1, 1989, military pay date to September 29, because these actions did not result from new laws or regulations.

Under these specifications, CBO's estimate as of August 15, 1989, of the budget baseline deficit for 1990 is $141.5 billion.

Table 1 shows the estimated budget effect of laws enacted and final regulations promulgated since January 1, 1989. The estimated increase in the deficit since January 1 of $5.5 billion stems primarily from three laws: the Financial Institutions Reform, Recovery, and Enforcement Act, intended to resolve the savings and loan crisis; the Dire Emergency Supplemental Appropriations Act of 1989; and the Disaster Assistance Act of 1989, which extends assistance to farmers affected by persistent drought conditions.

Other laws enacted and regulations promulgated since January 1 lower the budget baseline deficit for 1990 by an estimated $0.1 billion. As a result of all these changes, federal government interest costs have increased by $1.5 billion since January 1. About $1.2 billion of this increase results from an estimated $13.8 billion boost in the 1989 deficit, brought on by the savings and loan legislation.

CBO's final sequestration report will be issued on October 10, 1989, and will take into account legislation enacted after August 15. Significant deficit reduction could occur over the next two months: the Congress must act on 13 appropriation bills, as well as on legislation designed to reconcile certain permanently authorized programs with the 1990 budget resolution.

Snapshot date for initial CBO and OMB reports	August 15
Initial CBO report	August 21[a]
Initial OMB report	August 25
Initial sequestration order	August 25
Revised CBO report	October 10
Revised OMB report	October 16[a]
Final sequestration order	October 16[a]

a. The statutory dates for the initial CBO report and the revised OMB report are August 20 and October 15, respectively; both dates fall on Sundays in 1989. The reports will therefore be submitted on the following Mondays.

ECONOMIC ASSUMPTIONS

The principal economic assumptions underlying the CBO budget baseline estimates for fiscal year 1990

are shown in Table 2. The Balanced Budget Act requires the Directors of OMB and CBO to estimate the rate of real economic growth for the fiscal year covered by their reports, for each quarter of the fiscal year, and for the last two quarters of the preceding fiscal year. If either OMB or CBO projects real economic growth to be less than zero for any two consecutive quarters, or if the Department of Commerce reports actual real growth to have been less than 1 percent for two consecutive quarters, the Congress and the President may suspend many of the provisions of the act. Table 2 provides the CBO estimates for the rate of real economic growth and other economic variables for fiscal year 1990; Table 3 shows the quarterly estimates. CBO does not project real economic growth to be less than zero in any quarter during fiscal year 1990.

TABLE 2. CBO ECONOMIC ASSUMPTIONS FOR FISCAL YEAR 1990

Gross National Product:	
Billions of current dollars	5,463
Percent change, year over year	6.3
Billions of constant (1982) dollars	4,158
Percent change, year over year	1.9
GNP Implicit Price Deflator (Percent change, year over year)	4.4
CPI-U (Percent change, year over year)	4.9
Civilian Unemployment Rate (Percent, fiscal year average)	5.5
Interest Rates (Fiscal year average):	
91-day Treasury bills	7.3
10-year Treasury notes	8.2

REQUIRED OUTLAY REDUCTIONS

Sequestration of budgetary resources will be necessary for 1990 if the deficit estimated by OMB exceeds the $100 billion target by more than the $10 billion margin. Once sequestration is triggered, budget outlays must be reduced by the entire amount by which the deficit exceeds $100 billion. One-half of the required outlay reduction must be taken from defense programs (budget accounts in the national defense function, 050, excluding the Federal Emergency Management Agency) and the other half from nondefense programs. CBO's deficit projection of $141.5 billion would call for outlay reductions of

TABLE 3. REAL ECONOMIC GROWTH RATES FROM PREVIOUS QUARTER (Percentage growth at annual rates)

Fiscal Year 1989	
Actual[a]	
January-March 1989	3.7
April-June 1989	1.7
CBO Estimate	
July-September 1989	1.5
Fiscal Year 1990	
CBO Estimate	
October-December 1989	1.5
January-March 1990	1.7
April-June 1990	1.7
July-September 1990	1.9

a. As reported by the Department of Commerce (July 27, 1989).

$41.5 billion in 1990. Table 4 shows how budget outlays in defense and nondefense programs would be cut back to achieve this reduction.

If sequestration is required, the law provides that the automatic spending increases in three programs--the National Wool Act, the special milk program, and vocational rehabilitation--be eliminated and the resulting savings be applied to the required reduction in outlays for nondefense programs. According to CBO estimates, only the vocational rehabilitation program will receive an automatic spending increase in fiscal year 1990; eliminating this increase would produce $47 million in outlay savings in 1990. The outlay savings to be obtained by applying four special rules are also credited to the required spending reductions in nondefense programs. These special rules are for guaranteed student loans, foster care and adoption assistance, Medicare, and certain health programs, and are described in a later section of this report. Applying the special rules to these programs would achieve $2 billion in outlay savings in 1990.

The outlay reductions of $20.8 billion in defense programs and the remaining reductions of $18.7 billion in nondefense programs must be taken as a uniform percentage of all sequesterable budgetary resources in each category. The uniform reduction percentages are computed from outlay estimates: the required outlay savings to be achieved through across-the-board reductions are divided by the total estimated

TABLE 4. CBO SEQUESTRATION CALCULATIONS FOR FISCAL YEAR 1990
(In millions of dollars)

	Defense Programs	Nondefense Programs
Total Required Outlay Reductions	20,761	20,761
Savings from Eliminating Automatic Spending Increases	0	47
Savings from the Application of Special Rules:		
Guaranteed student loans	0	26
Foster care and adoption assistance	0	4
Medicare	0	1,786
Other health programs	0	204
Remaining Reductions Required	20,761	18,694
Estimated Sequestration Outlay Base	193,862	119,649[a]
Uniform Reduction Percentage	10.7	15.6

a. Includes $6,274 million in estimated 1991 outlays for the Commodity Credit Corporation that can be affected by a 1990 sequestration (see discussion of special rule for CCC). Also includes an estimated $1,972 million in outlays from the spending of offsetting collections.

outlays from sequesterable budgetary resources in each category. The resulting uniform reduction percentages are then applied to all of the sequesterable budgetary resources (budget authority, credit authority, and other spending authority) for defense and nondefense programs.

According to CBO estimates, the 1990 outlays associated with sequesterable budgetary resources for defense programs are $193.9 billion. From this base amount, $20.8 billion in across-the-board outlay reductions must be made. The uniform percentage to be applied to sequesterable defense budgetary resources is 10.7 percent, as shown in Table 4. The Balanced Budget Act allows the President to exempt military personnel spending from sequestration, which would reduce sequesterable outlays by about $75 billion; an exemption has not been issued this year. If the President had exempted military personnel spending from sequestration, the required reduction in other defense spending would have been 17.5 percent.

The 1990 outlays associated with budgetary resources for nondefense programs subject to across-the-board reduction are estimated to be $119.6 billion. To achieve $18.7 billion in nondefense outlay reductions, a 15.6 percent across-the-board reduction in nondefense sequesterable resources is required.

Table 5 lists budget baseline outlays for 1990. Defense outlays total $300.6 billion, of which $193.9 billion is subject to sequestration. In defense programs, unlike nondefense programs, the law specifies that spending from unobligated balances is subject to sequestration. Since the President has decided not to exempt military personnel spending, the only defense outlays that are not subject to sequestration are those resulting from previously appropriated budget authority that has already been obligated.

Nondefense baseline outlays for 1990 total $911.8 billion. Of this amount, only $113.4 billion is subject to across-the-board reduction. An additional $6.3 billion in 1991 Commodity Credit Corporation (CCC) outlays is counted under Balanced Budget Act specifications; together, these amounts yield the nondefense outlay base of $119.6 billion shown in Table 4. As Table 5 shows, a large percentage of nondefense outlays is exempted by law from the sequestration process. Social Security benefits, net interest payments, certain low-income programs, most federal retirement and disability benefits, veterans compensation and pensions, and regular state unemployment insurance benefits account for the largest exemptions. Outlays from appropriations for nondefense programs made in previous years are also not subject to sequestration.

The calculations in this report generally assume that all nonexempt budgetary resources can be sequestered in order to produce outlay savings, including entitlement programs and other mandatory spending programs where the spending authority is not controlled through the annual appropriation process. An exception is made for the administrative expenses of the Postal Service. While more than $1 billion of budgetary resources of the Postal Service is sequesterable under CBO estimates, no outlay savings are attributed by CBO to this sequestration because the Administration appears to have no mechanism for enforcing a sequestration order on the Postal Service. The Congress is currently considering legislation that would remove the Postal Service from federal budget totals and exempt it from sequestration calculations.

AUTOMATIC SPENDING INCREASES

The three programs with automatic spending increases currently subject to sequestration by the Bal-

TABLE 5. COMPOSITION OF BASELINE OUTLAYS FOR FISCAL YEAR 1990

Category	Estimate (In billions of dollars)	Percentage of Total
Defense Programs [a]		
Subject to across-the-board reduction	193.9	16.0
Exempt from sequestration [b]	106.8	8.8
Subtotal, defense programs	300.6	24.8
Nondefense Programs		
Subject to sequestration:		
Certain programs with automatic spending increases [c]	1.6	0.1
Certain special rule programs [d]	129.0	10.6
Subject to across-the-board reduction [e]	113.4	9.4
Subtotal, subject to sequestration	244.0	20.1
Exempt from sequestration:		
Social Security	247.6	20.4
Federal Retirement, disability, and workers compensation	65.9	5.4
Earned income tax credit	4.1	0.3
Low-income programs [f]	83.0	6.8
Veterans compensation and pensions	15.0	1.2
State unemployment benefits	14.6	1.2
Offsetting receipts	-59.6	-4.9
Net interest payments	179.8	14.8
Other	117.5	9.7
Subtotal, exempt from sequestration	667.9	55.1
Subtotal, nondefense programs	911.8	75.2
Total	1,212.5	100.0

a. Budget function 050, excluding Federal Emergency Management Agency programs.
b. Outlays from obligated balances.
c. National Wool Act, special milk, and vocational rehabilitation programs.
d. Guaranteed student loans, foster care and adoption assistance, Medicare, veterans medical care, and other health programs.
e. Excludes 1991 outlays for the Commodity Credit Corporation.
f. Family Support payments, child nutrition, Medicaid, Food Stamps, Supplemental Security Income, the Women, Infants, and Children's program, Commodity Supplemental Food program, and Nutrition Assistance to Puerto Rico.

anced Budget Act are listed in Table 6. The scheduled percentage increases are shown as well as the amount of estimated outlay savings to be gained by eliminating these increases. According to CBO, only the vocational rehabilitation program will receive an automatic spending increase in 1990.

SPECIAL RULES

The Balanced Budget Act provides special rules for the sequestration of budgetary resources for certain federal programs. This section describes these special rules and their application to the 1990 sequestration calculations. The estimated outlay savings derived from the first four rules are shown separately in Table 4. Any outlay savings resulting from the remaining special rules are included in the amount to be obtained from the uniform percentage reductions.

Guaranteed Student Loan Program

The Balanced Budget Act requires two changes in the guaranteed student loan (GSL) program to occur automatically under sequestration. First, the statutory factor for calculating the quarterly special allowance payments to lenders will be reduced by the lesser of 0.40 percentage point or the amount by which the statutory factor exceeds 3 percent for the first four quarters after the loan is made. Under the current program, the reduction will be 0.25 percentage point. Second, a student's origination fee will increase by 0.50 percentage point. In both cases, sequestration affects only GSL loans disbursed during

TABLE 6. AUTOMATIC SPENDING INCREASES FOR FISCAL YEAR 1990 SUBJECT TO SEQUESTRATION

Program	Scheduled Increase (Percent)	Outlay Reduction (Millions of dollars)
National Wool Act	a	a
Special Milk Programs	b	b
Vocational Rehabilitation[c]	4.2	46.9
Total		46.9

a. No 1990 payment increase is expected for this program, based on declining wool support price levels in marketing year 1989.
b. Benefits are indexed to the producer price index for fresh processed milk. This index is not projected to increase between May 1989 and May 1990.
c. This program is indexed to the change in the consumer price index (CPI-U) from October of the previous year.

the applicable fiscal year, but after the order is issued. For 1990, these changes are estimated by CBO to reduce outlays by $26 million.

Foster Care and Adoption Assistance Programs

The Balanced Budget Act limits the amount to be sequestered in the foster care and adoption assistance programs to increases in foster care maintenance payment rates or adoption assistance payment rates taking effect during the current fiscal year. Moreover, the amounts are limited to the extent that the reduction can be made by reducing federal matching payments by a uniform percentage across states. The increases in payment rates for these programs are made by the states and localities. Any increases planned by the states for fiscal year 1990 were included in the CBO calculations for sequestration reductions. The estimated outlay savings in 1990 from sequestration are $4 million.

Medicare

The sequestration reductions in the Medicare program are to be achieved by reducing payment amounts for covered services. No changes in coinsurance or deductible amounts are to be made, and covered services are unaffected under a sequestration order. Under such an order, each payment amount for services provided during the fiscal year would be reduced by a maximum of 2 percent relative to whatever level of payment would otherwise be made under Medicare laws and regulations. According to CBO estimates, the outlay savings to be achieved in 1990 by applying this special rule are $1.8 billion.

Veterans Medical Care and Other Health Programs

The Balanced Budget Act limits reductions in budget authority for the nonadministrative expenditures for veterans medical care, community and migrant health centers, and Indian health services and facilities to 2 percent in 1990 and any subsequent year. The estimated outlay savings to be achieved in 1990 by applying this special rule to these programs are $204 million.

Child Support Enforcement Program

In the child support enforcement (CSE) program, the Balanced Budget Act provides that sequestration of entitlement payments to states is to be accomplished by reducing the federal matching rates for state administrative expenses. For 1990, the federal matching rates on most expenditures under CBO estimates would be reduced from 66 percent to 55.7 percent, and the rate for computer-related and laboratory expenditures would be reduced from 90 percent to 76 percent. These reductions in the matching rates are necessary to achieve the same 15.6 percent reduction applied to other nondefense programs.

If states increase their share of CSE spending to maintain total program spending at the expected 1990 level, this reduction in the federal matching rate will lower federal outlays by the same percentage as other nondefense programs. If states do not increase their 1990 budgeted amounts to compensate for lower matching rates, however, the lower federal matching rate would result in a larger percentage reduction in federal spending than the act requires. The estimated outlay savings that are to be achieved in 1990 by applying this special rule are $200 million.

Unemployment Compensation Programs

The Balanced Budget Act provides that the following items are not to be sequestered: regular state unemployment benefits, the state share of extended unemployment benefits, unemployment benefits paid to former federal employees and former members of the armed services, and loans and advances to the state and federal unemployment accounts. The

federal share of extended benefits, unemployment insurance for railroad employees, other federally paid benefits, and state and federal administrative expenses are subject to sequestration.

Both the federal and state shares of extended unemployment benefits are paid from the Unemployment Trust Fund--the federal share from a federal account and the state share from each state's account. State law sets the amount of each weekly extended benefit. The Balanced Budget Act permits any state to reduce the weekly extended benefit amount by a percentage equal to the uniform reduction in the federal share. If states do not change their laws to provide for such a reduction, the weekly benefit payments will not be reduced, the state share will increase by the amount of the decrease in the federal share, and total budget outlays that include both federal and state benefits will not be changed by the sequestration. No states are currently paying extended benefits.

Commodity Credit Corporation

Under the Balanced Budget Act, payments and loan eligibility under any contract entered into by the Commodity Credit Corporation (CCC) after a sequestration order has been issued for a fiscal year are subject to a percentage reduction. The act requires that reductions for all farm commodities supported by the CCC be made in a uniform manner, including all noncontract programs, projects, and activities within the CCC's jurisdiction. The act further stipulates that outlay reductions in the post-sequestration year that are the result of contract adjustments in the sequestration year should be credited to the overall outlay reduction required in the sequestration year. The outlay savings to be achieved by applying this special rule are estimated by CBO to be $1.0 billion in 1990, and $1.0 billion in 1991. The actual amount of savings realized in each year will depend upon how the sequestration is carried out for the various CCC programs. In accordance with the act, however, all $2.0 billion of these estimated outlay savings are credited toward the $20.8 billion reduction in nondefense spending required for 1990.

Federal Pay

The Balanced Budget Act provides that rates of pay or any scheduled pay increases may not be reduced following a sequestration order. For members of the armed services, this provision applies to rates of basic pay, basic subsistence allowances, and basic quarter allowances. Budgetary resources available for federal pay, however, will be subject to sequestration as part of the reduction of administrative expenses, which include travel, printing, supplies, and other services. The total amount of government-wide savings to be achieved in 1990 from employee compensation cannot be estimated because program managers are expected to be urged not to resort to personnel furloughs and reductions in force until other administrative expenses are reduced as much as possible.

CONCEPTUAL ISSUES

In preparing its initial sequestration report for 1990, CBO has identified a few areas of ambiguity in the interpretation of the Balanced Budget Act. Some of these uncertainties affect the computation of the baseline deficit, while others involve the determination of whether or not a particular budget account is subject to sequestration.

Baseline Issues

In developing the 1990 baseline estimates for national defense, CBO has taken as its starting point the 1989 budget authority figures shown in the Administration's *Mid-Session Review of the 1990 Budget*. These figures reflect expected transfers of budget authority from one account to another, which the Secretary of Defense can make under existing legislative authority. The OMB estimate of the Balanced Budget Act baseline contained in the *Mid-Session Review* is predicated on 1989 budget authority figures that do not reflect expected transfers. CBO's assumption adds $0.9 billion to 1990 defense outlays and the deficit because the transfers are, on balance, from slow-spending to fast-spending accounts.

CBO and OMB also make different assumptions about pay absorption--the portion of the January 1989 pay raise that was not reflected in 1989 appropriations and that agencies had to accommodate through reductions in other spending. CBO assumes that the 1989 pay raise for civilian agency employees was fully absorbed, and that the Department of Defense absorbed 42 percent of the pay raise for civilian personnel and 7 percent of the military pay raise. CBO bases its assumption on language in the 13 appropriation bills and the accompanying conference reports for 1989. OMB, however, assumes that there was no pay absorption in fiscal year 1989. CBO's assumption adds $0.2 billion to defense spending and $1.0 billion to nondefense outlays.

Although not affecting the 1990 deficit estimate, several issues involving expiring entitlement programs merit clarification if the Congress considers

modifications to the Balanced Budget Act. While entitlements and other mandatory spending are generally projected in accord with current laws, the act provides that agricultural price support programs are to be continued at current rates. The meaning of the term "current rates," however, should be clarified. It has been interpreted both as a constant level of target prices and as a constant rate of decline in target prices. Also, the act does not provide for the continuation of the Food Stamp program (even though it is authorized by the same law that authorizes farm price supports), guaranteed student loans, or trade adjustment assistance. If one of these programs were to expire in the budget year, as Food Stamps will do at the beginning of fiscal year 1991, the baseline estimate would be sharply reduced and sequestration would be unlikely. Such circumstances would limit the realism and usefulness of the baseline.

Sequestration Issues

One problematic area is the treatment of three entitlement programs created by the Family Support Act of 1988. The three new programs are designed to benefit families receiving Aid to Families with Dependent Children (AFDC)--the Job Opportunities and Basic Skills training program (JOBS), child care for families who are in the JOBS program, and extended child care for families who cease to receive AFDC. Pending clarification of their treatment, both CBO and OMB have assumed that the JOBS program is subject to sequestration and that the two child care programs are exempt. The child care funds are authorized under the same part of the Social Security Act (Title IV-A) that authorizes AFDC, which is exempt from sequestration. The JOBS program, however, is distinct from AFDC. Many of its requirements are set out in a different part of the law (Title IV-F), a separate state plan is required, and funding is separate.

CBO and OMB differ with respect to the treatment of the administrative expenses of the vaccine improvement program trust fund. Section 2115(f)(3) of the Public Health Service Act exempts from sequestration any payments of vaccine injury compensation. Because no explicit exemption is provided for administrative expenses, CBO regards them as sequesterable, although OMB treats the entire program as exempt. If such ambiguities are to be avoided, as CBO and OMB have previously noted, exempting programs from sequestration should be accomplished by amending the specifications for the sequestration report contained in the Balanced Budget Act.

CBO and OMB continue to disagree over the treatment of the Treasury's payments to the Farm Credit System Financial Assistance Corporation for interest and the Railroad Retirement Board's supplemental annuity pension fund. In conformance with the opinion of the General Accounting Office, CBO regards these programs as exempt from sequestration.

SEQUESTRATION REDUCTIONS

A summary of CBO's calculations for the sequestration of budgetary resources and the estimated outlay savings for 1990 is provided for national defense programs in Table 7 and for nondefense programs by function in Table 8. The tables show CBO's budget baseline estimates for new budget authority and outlays, reductions in outlays caused by sequestration, and post-sequestration spending levels. In most instances, additional outlay savings would be gained in 1991 and later years as a result of the cancellation of 1990 budget authority. Interest costs would also be permanently lowered as a result of reduced federal borrowing needs. Savings in later years have not been estimated for this report. A detailed list of the sequestration base and reductions by agency and budget account by type of spending authority is provided as an appendix to this report.

The CBO sequestration calculations and post-sequestration spending levels are advisory only. OMB will determine whether a sequestration is triggered and, if so, the actual sequestration amounts. OMB's initial determination will be issued on August 25.

TABLE 7. DEFENSE PROGRAM SEQUESTRATIONS FOR FISCAL YEAR 1990
(In billions of dollars)

Budget Function 050	August Budget Baseline[a]	CBO Estimated Sequestration[b]	Post-Sequestration
Department of Defense-Military:			
Military personnel			
Budget authority	79.8	8.5	71.2
Outlays	76.8	8.1	68.7
Operation and maintenance			
Budget authority	89.8	9.6	80.2
Outlays	88.6	7.6	81.0
Procurement			
Budget authority	82.7	8.9	73.9
Outlays	80.5	1.7	78.8
Research, development, test, and evaluation			
Budget authority	39.2	4.2	35.0
Outlays	37.3	2.4	34.9
Military construction and other			
Budget authority	9.3	1.1	8.3
Outlays	8.9	0.3	8.6
Subtotal, DoD--military			
Budget authority	300.8	32.3	268.6
Outlays	292.1	20.1	272.0
Atomic Energy Defense Activities			
Budget authority	8.5	0.9	7.6
Outlays	8.3	0.6	7.7
Other Defense-related Activities[c]			
Budget authority	0.6	0.1	0.5
Outlays	0.5	[d]	0.5
Total			
Budget authority	309.9	33.2	276.6
Outlays	301.0	20.8	280.2

a. Does not include an estimated $39.6 billion in unobligated balances subject to sequestration.

b. Does not include $4.2 billion in unobligated balances that would be sequestered.

c. Includes the function 050 portion of Federal Emergency Management Agency budget accounts, which are reduced at the same rate as nondefense programs.

d. $50 million or less.

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TABLE 8. NONDEFENSE PROGRAM SEQUESTRATIONS FOR FISCAL YEAR 1990 BY FUNCTION (In billions of dollars)

Budget Function		August Budget Baseline	CBO Estimated Sequestration	Post-Sequestration
150	International Affairs			
	Budget authority	19.0	2.9	16.1
	Outlays	17.2	1.6	15.6
250	General Science, Space, and Technology			
	Budget authority	13.4	2.1	11.3
	Outlays	13.6	1.3	12.4
270	Energy			
	Budget authority	5.7	1.2	4.5
	Outlays	3.4	0.6	2.8
300	Natural Resources and Environment			
	Budget authority	18.0	3.3	14.7
	Outlays	18.3	2.0	16.3
350	Agriculture [a]			
	Budget authority	19.5	1.5	18.0
	Outlays	16.2	1.6	14.6
370	Commerce and Housing Credit			
	Budget authority	25.6	0.4	25.2
	Outlays	23.1	0.6	22.4
400	Transportation			
	Budget authority	30.2	4.6	25.6
	Outlays	29.3	1.7	27.6
450	Community and Regional Development			
	Budget authority	6.9	0.8	6.1
	Outlays	6.8	0.3	6.5
500	Education, Training, Employment, and Social Services			
	Budget authority	39.7	4.9	34.8
	Outlays	38.5	1.8	36.7
550	Health			
	Budget authority	57.3	2.7	54.5
	Outlays	55.8	1.1	54.7
570	Medicare			
	Budget authority	123.6	0.0	123.6
	Outlays	100.1	2.1	98.0
600	Income Security			
	Budget authority	184.5	2.4	182.2
	Outlays	145.7	1.3	144.4
650	Social Security			
	Budget authority	313.9	0.0	313.9
	Outlays	249.2	0.3	249.0
700	Veterans Benefits and Services			
	Budget authority	31.6	0.7	30.9
	Outlays	30.8	0.5	30.3
750	Administration of Justice			
	Budget authority	10.3	1.7	8.6
	Outlays	10.1	1.4	8.7
800	General Government			
	Budget authority	10.4	1.6	8.8
	Outlays	10.4	1.5	8.9
900	Net Interest [b]			
	Budget authority	179.8	1.7	178.1
	Outlays	179.8	1.7	178.1
950	Undistributed Offsetting Receipts			
	Budget authority	-36.8	0.0	-36.8
	Outlays	-36.8	0.0	-36.8
	Total			
	Budget authority	1,052.6	32.6	1,020.0
	Outlays	911.5	21.4	890.1

a. Excludes $1.0 billion in estimated 1991 outlay savings for programs of the Commodity Credit Corporation that are credited toward the 1990 sequestration (see discussion of special rule for the CCC).

b. Includes $1.7 billion savings in debt service costs as a result of 1990 outlay reductions through sequestration.

APPENDIX

SEQUESTRATION REDUCTIONS

BY AGENCY AND BUDGET ACCOUNT

(Fiscal year 1990, in thousands of dollars)

Percentages used:

Defense	10.7 percent
Nondefense	15.6 percent

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Legislative Branch			
Senate			
Salaries, officers and employees			
00 0110 0 1 801	Budget Authority	371,217	57,910
	Outlays	351,037	54,762
House of Representatives			
Mileage of Members			
00 0208 0 1 801	Budget Authority	219	34
	Outlays	110	17
Salaries and expenses			
00 0400 0 1 801	Budget Authority	545,291	85,065
	Outlays	513,664	80,132
Congressional use of foreign currency, House of Representatives			
00 0488 0 1 801	401(C) Authority	3,360	524
	Outlays	3,360	524
Joint Items			
Capitol Guide Service			
00 0170 0 1 801	Budget Authority	1,327	207
	Outlays	1,194	186
Joint Committee on Printing			
00 0180 0 1 801	Budget Authority	1,244	194
	Outlays	1,154	180
Joint Economic Committee			
00 0181 0 1 801	Budget Authority	3,623	565
	Outlays	3,442	537
Joint Committee on Inaugural Ceremonies of 1989			
00 0186 0 1 801	Budget Authority	826	129
	Outlays	826	129
Office of the Attending Physician			
00 0425 0 1 801	Budget Authority	1,476	230
	Outlays	592	92
Joint Committee on Taxation			
00 0460 0 1 801	Budget Authority	4,687	731
	Outlays	4,453	695
Salaries, Capitol Police			
00 0474 0 1 801	Budget Authority	57,113	8,910
	Outlays	55,285	8,624
General expenses, Capitol police			
00 0476 0 1 801	Budget Authority	1,970	307
	Outlays	1,673	261
Statements of appropriations			
00 0499 0 1 801	Budget Authority	21	3
Official mail costs			
00 0825 0 1 801	Budget Authority	56,299	8,783
	Outlays	56,299	8,783
Congressional Budget Office			
Salaries and expenses			
08 0100 0 1 801	Budget Authority	19,764	3,083
	Outlays	17,788	2,775
Architect of the Capitol			
Office of the Architect of the Capitol: Salaries			
01 0100 0 1 801	Budget Authority	7,107	1,109
	Outlays	6,474	1,010
Contingent expenses			
01 0102 0 1 801	Budget Authority	104	16
	Outlays	104	16
Capitol buildings			
01 0105 0 1 801	Budget Authority	16,447	2,566
	Outlays	13,240	2,065
Capitol grounds			
01 0108 0 1 801	Budget Authority	4,051	632
	Outlays	3,370	526
Senate office buildings			
01 0123 0 1 801	Budget Authority	25,830	4,029
	Outlays	19,011	2,966
House office buildings			
01 0127 0 1 801	Budget Authority	30,942	4,827
	Outlays	22,000	3,432
Capitol Power Plant			
01 0133 0 1 801	Budget Authority	26,023	4,060
	401(C) Authority - Off. Coll.	253	39
	Outlays	22,633	3,530
Structural and mechanical care, Library buildings and grounds			
01 0155 0 1 801	Budget Authority	7,968	1,243
	Outlays	6,406	999

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Capitol Preservation Fund			
01 8888 0 7 801	Budget Authority	500	78
Library of Congress			
Salaries and expenses			
03 0101 0 1 503	Budget Authority	159,145	24,827
	401(C) Authority - Off. Coll.	5,060	789
	Outlays	135,559	21,147
Copyright Office: Salaries and expenses			
03 0102 0 1 376	Budget Authority	12,621	1,969
	401(C) Authority - Off. Coll.	8,144	1,270
	Outlays	18,872	2,944
Congressional Research Service: Salaries and expenses			
03 0127 0 1 801	Budget Authority	48,313	7,537
	Outlays	43,675	6,813
Books for the blind and physically handicapped: Salaries and expenses			
03 0141 0 1 503	Budget Authority	38,273	5,971
	Outlays	19,137	2,985
National Film Preservation Board,Salaries and expenses			
03 0143 0 1 503	Budget Authority	261	41
	Outlays	261	41
Furniture and furnishings			
03 0146 0 1 503	Budget Authority	3,534	551
	Outlays	2,000	312
Gift and trust fund accounts			
03 9971 0 7 503	401(C) Other - incl. ob. limit	328	51
	Outlays	328	51
Government Printing Office			
Office of Superintendent of Documents: Salaries and expenses			
04 0201 0 1 808	Budget Authority	14,446	2,254
	Outlays	8,971	1,399
Congressional printing and binding			
04 0203 0 1 801	Budget Authority	75,168	11,726
	Outlays	60,134	9,381
Government Printing Office revolving fund			
04 4505 0 4 808	401(C) Authority - Off. Coll.	66,093	10,311
	Outlays	66,093	10,311
General Accounting Office			
Salaries and expenses			
05 0107 0 1 801	Budget Authority	373,519	58,269
	Outlays	343,637	53,607
United States Tax Court			
Salaries and expenses			
23 0100 0 1 752	Budget Authority	31,278	4,879
	Outlays	25,022	3,903
Tax courts independent counsel, U.S. Tax Court			
23 5023 0 2 752	401(C) Authority	10	2
	Outlays	10	2
Legislative Branch Boards and Commissions			
Prescription Drug Payment Review Commission			
03 8880 0 1 570	Budget Authority	265	41
	Outlays	225	35
Commission on Security and Cooperation in Europe: Salaries and expenses			
09 0110 0 1 801	Budget Authority	800	125
	Outlays	719	112
Botanic Garden: Salaries and expenses			
09 0200 0 1 801	Budget Authority	2,721	424
	Outlays	2,449	382
Copyright Royalty Tribunal: Salaries and expenses			
09 0310 0 1 376	Budget Authority	132	21
	Outlays	119	19
Biomedical Ethics: Salaries and expenses			
09 0400 0 1 801	Budget Authority	254	40
	Outlays	183	29
International conferences and contingencies: House and Senate expenses			
09 0500 0 1 801	401(C) Authority	340	53
	Outlays	340	53
National Commission on Children			
09 1050 0 1 801	Budget Authority	847	132
	Outlays	742	116
United States Bipartisan Commission on Comprehensive Health Care			
09 1100 0 1 801	Budget Authority	1,111	173
	Outlays	933	146
Commission on Railroad Retirement Reform			
48 0850 0 1 801	Budget Authority	1,031	161
	Outlays	1,031	161

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Office of Technology Assessment			
Salaries and expenses			
09 0700 0 1 801	Budget Authority	19,202	2,996
	Outlays	14,402	2,247
John C. Stennis Center for Public Service Training and Development			
Payment to the John C. Stennis Center			
09 1200 0 1 801	Budget Authority	7,830	1,221
	Outlays	7,830	1,221
John C. Stennis Center for Public Service Development trust fund			
09 8275 0 7 801	401(C) Authority	564	88
	Outlays	564	88
TOTAL FOR Legislative Branch			
	Budget Authority	1,974,800	308,069
	401(C) Authority	4,274	667
	401(C) Authority - Off. Coll.	79,550	12,409
	401(C) Other - incl. ob. limit	328	51
	Outlays	1,857,351	289,746
The Judiciary			
Supreme Court of the United States			
Salaries and expenses			
10 0100 0 1 752	Budget Authority	15,987	2,494
	Outlays	12,790	1,995
Care of the buildings and grounds			
10 0103 0 1 752	Budget Authority	2,261	353
	Outlays	1,696	265
United States Court of Appeals for the Federal Circuit			
Salaries and expenses			
10 0510 0 1 752	Budget Authority	7,569	1,181
	Outlays	6,812	1,063
United States Court of International Trade			
Salaries and expenses			
10 0400 0 1 752	Budget Authority	7,599	1,185
	Outlays	6,839	1,067
Courts of Appeals, District Courts, and other Judicial Services			
Salaries and expenses			
10 0920 0 1 752	Budget Authority	1,158,940	180,795
	401(C) Authority - Off. Coll.	3,500	546
	Outlays	1,069,725	166,878
Defender services			
10 0923 0 1 752	Budget Authority	116,013	18,098
	Outlays	58,007	9,049
Fees of jurors and commissioners			
10 0925 0 1 752	Budget Authority	51,520	8,037
	Outlays	46,368	7,233
Court security			
10 0930 0 1 752	Budget Authority	43,272	6,750
	Outlays	28,127	4,388
Registry administration			
10 5101 0 2 752	401(C) Authority	21,000	3,276
	Outlays	21,000	3,276
Administrative Office of the United States Courts			
Salaries and expenses			
10 0927 0 1 752	Budget Authority	36,141	5,638
	Outlays	32,527	5,074
Federal Judicial Center			
Salaries and expenses			
10 0928 0 1 752	Budget Authority	11,907	1,857
	Outlays	9,526	1,486
Judiciary Retirement Funds			
Payment to judicial officers' retirement fund			
10 0941 0 1 752	Budget Authority	4,000	624
Judicial officers' retirement fund			
10 8122 0 7 602	401(C) Other - incl. ob. limit	4,000	624
	Outlays	4,000	624
TOTAL FOR The Judiciary			
	Budget Authority	1,455,209	227,012
	401(C) Authority	21,000	3,276
	401(C) Authority - Off. Coll.	3,500	546
	401(C) Other - incl. ob. limit	4,000	624
	Outlays	1,297,417	202,398
Executive Office of the President			
The White House Office			
Salaries and expenses			
11 0110 0 1 802	Budget Authority	29,942	4,671
	Outlays	26,948	4,204

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Executive Residence at the White House			
Operating expenses			
11 0210 0 1 802	Budget Authority	6,132	957
	401(C) Authority - Off. Coll.	853	133
	Outlays	6,678	1,042
Official Residence of the Vice President			
Operating expenses			
11 0211 0 1 802	Budget Authority	271	42
	Outlays	238	37
Special Assistance to the President			
Salaries and expenses			
11 1454 0 1 802	Budget Authority	2,346	366
	Outlays	2,064	322
Council of Economic Advisers			
Salaries and expenses			
11 1900 0 1 802	Budget Authority	2,998	468
	Outlays	2,608	407
Council on Environmental Quality and Office of Environmental Quality			
Council on Environmental Quality and Office of Environmental Quality			
11 1453 0 1 802	Budget Authority	915	143
	Outlays	870	136
Office of Policy Development			
Salaries and expenses			
11 2200 0 1 802	Budget Authority	3,222	503
	Outlays	2,803	437
National Security Council			
Salaries and expenses			
11 2000 0 1 802	Budget Authority	5,461	852
	Outlays	4,369	682
National Critical Materials Council			
Salaries and expenses			
11 0111 0 1 802	Budget Authority	243	38
	Outlays	221	34
Office of Administration			
Salaries and expenses			
11 0038 0 1 802	Budget Authority	19,440	3,033
	Outlays	13,997	2,184
Office of Management and Budget			
Office of Federal Procurement Policy: Salaries and expenses			
11 0201 0 1 802	Budget Authority	2,535	395
	Outlays	2,284	356
Salaries and expenses			
11 0300 0 1 802	Budget Authority	42,566	6,640
	Outlays	37,841	5,903
Office of National Drug Control Policy			
Salaries and expenses			
11 1457 0 1 802	Budget Authority	3,676	573
	Outlays	3,294	514
Office of Science and Technology Policy			
Salaries and expenses			
11 2600 0 1 802	Budget Authority	1,695	264
	Outlays	1,017	159
Office of the United States Trade Representative			
Salaries and expenses			
11 0400 0 1 802	Budget Authority	16,296	2,542
	Outlays	13,852	2,161
TOTAL FOR Executive Office of the President			
	Budget Authority	137,738	21,487
	401(C) Authority - Off. Coll.	853	133
	Outlays	119,084	18,578
Funds Appropriated to the President			
Unanticipated Needs			
Unanticipated needs			
11 0037 0 1 802	Budget Authority	855	133
	Outlays	823	128
Investment in Management Improvement			
Investment in management improvement (Executive direction and management			
11 0061 0 1 802	Budget Authority	1,044	163
	Outlays	783	122
International Security Assistance			
Peacekeeping operations			
11 1032 0 1 152	Budget Authority	33,083	5,161
	Outlays	25,375	3,959
Economic support fund			
11 1037 0 1 152	Budget Authority	3,401,874	530,692
	Outlays	1,901,648	296,657

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Military assistance			
11 1080 0 1 152	Budget Authority	488,509	76,207
	Outlays	95,748	14,937
International military education and training			
11 1081 0 1 152	Budget Authority	49,486	7,720
	Outlays	24,743	3,860
Foreign military sales financing			
11 1082 0 1 152	Budget Authority	4,460,751	695,877
	Direct Loan Limitation	428,040	66,774
	Outlays	1,879,200	293,155
Multilateral Assistance			
Contribution to the International Development Association			
11 0073 0 1 151	Budget Authority	1,038,780	162,050
Contribution to the Asian Development Bank			
11 0076 0 1 151	Budget Authority	159,097	24,819
Contribution to the International Bank for Reconstruction and Developmen			
11 0077 0 1 151	Budget Authority	52,201	8,143
	Outlays	5,220	814
Contribution to the International Finance Corporation			
11 0078 0 1 151	Budget Authority	5,107	797
	Outlays	5,107	797
Contribution to the African Development Fund			
11 0079 0 1 151	Budget Authority	109,620	17,101
Contribution to the African Development Bank			
11 0082 0 1 151	Budget Authority	7,668	1,196
	Outlays	7,668	1,196
International organizations and programs			
11 1005 0 1 151	Budget Authority	236,064	36,826
	Outlays	175,091	27,314
Agency for International Development			
Operating expenses Agency for International Development			
11 1000 0 1 151	Budget Authority	446,750	69,693
	Outlays	336,131	52,437
Operating expenses of the Agency for International Development Office of			
11 1007 0 1 151	Budget Authority	30,321	4,730
	Outlays	22,741	3,548
American schools and hospitals abroad			
11 1013 0 1 151	Budget Authority	36,540	5,700
	Outlays	12,168	1,898
Sub-Saharan Africa, development assistance			
11 1014 0 1 151	Budget Authority	574,200	89,575
	Outlays	48,807	7,614
Functional development assistance program			
11 1021 0 1 151	Budget Authority	1,266,249	197,535
	Outlays	107,631	16,790
International disaster assistance			
11 1035 0 1 151	Budget Authority	29,232	4,560
	Outlays	7,250	1,131
Housing and other credit guaranty programs			
72 4340 0 3 151	401(C) Authority - Off. Coll.	6,895	1,076
	Guaranteed Loan Limitation	130,500	20,358
	Outlays	6,736	1,051
Private sector revolving fund			
72 4341 0 3 151	Budget Authority	8,874	1,384
	Direct Loan Limitation	12,528	1,954
	Guaranteed Loan Limitation	52,200	8,143
	Outlays	920	144
Trade and Development Program			
Trade and development program			
11 1001 0 1 151	Budget Authority	26,156	4,080
	Outlays	5,414	845
Peace Corps			
Peace Corps			
11 0100 0 1 151	Budget Authority	163,497	25,506
	401(C) Authority - Off. Coll.	440	69
	Outlays	134,592	20,996
Overseas Private Investment Corporation			
Overseas Private Investment Corporation			
71 4030 0 3 151	401(C) Authority - Off. Coll.	12,030	1,877
	Direct Loan Limitation	24,012	3,746
	Guaranteed Loan Limitation	182,700	28,501
	Outlays	14,359	2,240
Inter-American Foundation			
Inter-American Foundation			
11 4031 0 3 151	Budget Authority	17,409	2,716
	401(C) Authority - Off. Coll.	13,277	2,071
	Outlays	12,275	1,915

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
African Development Foundation			
African Development Foundation			
11 0700 0 1 151	Budget Authority	8,417	1,313
	Outlays	4,629	722
Military Sales Programs			
Special defense acquisition fund			
11 4116 0 3 155	Obligation Limitation	247,287	38,577
	Outlays	2,473	386
Foreign military sales trust fund			
11 8242 0 7 155	401(C) Authority - Off. Coll.	263,000	41,028
	Outlays	244,590	38,156
Special Assistance for Central America			
Central American reconciliation assistance			
11 1038 0 1 152	Budget Authority	54,492	8,501
	Outlays	33,458	5,219
TOTAL FOR Funds Appropriated to the President			
	Budget Authority	12,706,276	1,982,178
	401(C) Authority - Off. Coll.	295,642	46,121
	Direct Loan Limitation	464,580	72,474
	Guaranteed Loan Limitation	365,400	57,002
	Obligation Limitation	247,287	38,577
	Outlays	5,115,580	798,031
Department of Agriculture			
Office of the Secretary			
Office of the Secretary			
12 0115 0 1 352	Budget Authority	6,590	1,028
	Outlays	6,188	966
Departmental Administration			
Rental payments and building operations			
12 0117 0 1 352	Budget Authority	73,994	11,543
	Outlays	63,561	9,916
Advisory committees			
12 0118 0 1 352	Budget Authority	1,582	247
	Outlays	1,149	179
Departmental administration			
12 0120 0 1 352	Budget Authority	27,960	4,362
	Outlays	18,789	2,931
Hazardous waste management			
12 0500 0 1 304	Budget Authority	5,220	814
	Outlays	2,610	407
Working capital fund			
12 4609 0 4 352	Budget Authority	4,978	777
	Outlays	3,918	611
Office of Governmental and Public Affairs			
Office of Governmental and Public Affairs			
12 0130 0 1 352	Budget Authority	9,510	1,484
	Outlays	7,228	1,128
Office of the Inspector General			
Office of the Inspector General			
12 0900 0 1 352	Budget Authority	54,283	8,468
	Outlays	48,529	7,571
Office of the General Counsel			
Office of the General Counsel			
12 2300 0 1 352	Budget Authority	22,491	3,509
	Outlays	20,309	3,168
Agricultural Research Service			
Agricultural Research Service			
12 1400 0 1 352	Budget Authority	600,971	93,751
	401(C) Authority - Off. Coll.	3,200	499
	Outlays	474,361	74,000
Buildings and facilities			
12 1401 0 1 352	Budget Authority	16,726	2,609
	Outlays	2,509	391
Cooperative State Research Service			
Cooperative State Research Service			
12 1500 0 1 352	Budget Authority	353,226	55,103
	401(C) Authority	2,850	445
	Outlays	188,647	29,429
Extension Service			
Extension Service			
12 0502 0 1 352	Budget Authority	377,665	58,916
	401(C) Authority - Off. Coll.	380	59
	Outlays	292,693	45,660

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Agricultural Library			
National Agricultural Library			
12 0300 0 1 352	Budget Authority	14,118	2,202
	Outlays	10,659	1,663
National Agricultural Statistics Service			
Salaries and expenses			
12 1801 0 1 352	Budget Authority	67,895	10,592
	401(C) Authority - Off. Coll.	1,200	187
	Outlays	60,337	9,412
Economic Research Service			
Salaries and expenses			
12 1701 0 1 352	Budget Authority	53,098	8,283
	Outlays	43,912	6,850
World Agricultural Outlook Board			
World agricultural outlook board			
12 2100 0 1 352	Budget Authority	1,958	305
	Outlays	1,523	238
Foreign Agricultural Service			
Foreign Agricultural Service			
12 2900 0 1 352	Budget Authority	101,070	15,767
	Outlays	58,722	9,161
Office of International Cooperation and Development			
Scientific activities overseas (foreign currency program)			
12 1404 0 1 352	Budget Authority	1,044	163
	Outlays	833	130
Salaries and expenses			
12 3200 0 1 352	Budget Authority	5,672	885
	Outlays	5,666	884
Foreign Assistance Programs			
Expenses, Public Law 480, foreign assistance programs, Agriculture			
12 2274 0 1 151	Budget Authority	996,049	155,384
	Direct Loan Limitation	825,700	128,809
	Obligation Limitation	1,547,104	241,348
	Outlays	1,407,864	219,627
Agricultural Stabilization and Conservation Service			
Salaries and expenses			
12 3300 0 1 351	Budget Authority	345	54
	401(C) Authority - Off. Coll.	19,954	3,113
	Outlays	19,954	3,113
Dairy indemnity program			
12 3314 0 1 351	Budget Authority	95	15
	Outlays	95	15
Agricultural conservation program			
12 3315 0 1 302	Budget Authority	184,720	28,816
	Outlays	84,971	13,255
Emergency conservation program			
12 3316 0 1 453	Budget Authority	5,220	814
	Outlays	2,349	366
Colorado river basin salinity control program			
12 3318 0 1 304	Budget Authority	5,692	888
	Outlays	2,846	444
Conservation reserve program			
12 3319 0 1 302	Budget Authority	1,602,604	250,006
	Outlays	873,305	136,236
Water Bank program			
12 3320 0 1 302	Budget Authority	9,396	1,466
	Outlays	1,400	218
Forestry incentives program			
12 3336 0 1 302	Budget Authority	12,994	2,027
	Outlays	5,016	782
Federal Crop Insurance Corporation			
Administrative and operating expenses			
12 2707 0 1 351	Budget Authority	212,169	33,098
	Outlays	120,300	18,767
Commodity Credit Corporation			
Temporary emergency food assistance program			
12 3635 0 1 351	Budget Authority	172,200	26,863
	Outlays	156,488	24,412
Commodity Credit Corporation Fund			
12 4336 0 3 351	401(C) Authority	12,812,000	1,998,672
	Direct Loan Limitation	10,251,000	1,599,156
	Guaranteed Loan Limitation	5,742,000	895,752
	Outlays	12,812,000	1,998,672

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Rural Electrification Administration			
Salaries and expenses			
12 3100 0 1 271	Budget Authority	33,534	5,231
	Outlays	30,248	4,719
Reimbursement to the Rural electrification and telephone revolving fund			
12 3101 0 1 271	Budget Authority	356,004	55,537
Purchase of Rural Telephone Bank capital stock			
12 3102 0 1 452	Budget Authority	29,973	4,676
	Outlays	29,973	4,676*
Rural electrification and telephone revolving fund			
12 4230 0 3 271	Direct Loan Limitation	3,492,796	544,876
	Direct Loan Floor	1,867,944	291,399
	Outlays	85,904	13,401
Rural telephone bank			
12 4231 0 3 452	Direct Loan Limitation	219,804	34,289
	Direct Loan Floor	184,834	28,834
	Outlays	8,141	1,270
Farmers Home Administration			
Salaries and expenses			
12 2001 0 1 452	Budget Authority	446,539	69,660
	Outlays	397,420	61,998
Rural housing for domestic farm labor			
12 2004 0 1 604	Budget Authority	9,932	1,549
	Outlays	397	62
Mutual and self-help housing			
12 2006 0 1 604	Budget Authority	8,352	1,303
	Outlays	668	104
Very low income housing repair grants			
12 2064 0 1 604	Budget Authority	13,050	2,036
	Outlays	12,398	1,934
Rural development grant program			
12 2065 0 1 452	Budget Authority	6,786	1,059
	Outlays	1,697	265
Rural water and waste disposal grants			
12 2066 0 1 452	Budget Authority	122,038	19,037
	Outlays	2,441	380
Rural community fire protection grants			
12 2067 0 1 452	Budget Authority	3,227	503
	Outlays	1,452	227
Rural housing preservation grants			
12 2070 0 1 604	Budget Authority	19,982	3,117
	Outlays	1,199	187
Compensation for construction defects			
12 2071 0 1 371	Budget Authority	522	81
	Outlays	522	81
Agricultural credit insurance fund			
12 4140 0 3 351	401(C) Authority - Off. Coll.	115,000	17,940
	Direct Loan Limitation	1,637,619	255,469
	Guaranteed Loan Limitation	3,471,414	541,541
	Outlays	1,240,084	193,453
Rural housing insurance fund			
12 4141 0 3 371	401(C) Authority - Off. Coll.	17,000	2,652
	Direct Loan Limitation	1,926,170	300,483
	Obligation Limitation	286,600	44,710
	Outlays	1,240,290	193,485
Rural development insurance fund			
12 4155 0 3 452	401(C) Authority - Off. Coll.	2,000	312
	Direct Loan Limitation	447,354	69,787
	Guaranteed Loan Limitation	308,711	48,159
	Outlays	24,774	3,865
Self-help housing land development fund			
12 4222 0 3 371	Direct Loan Limitation	521	81
	Outlays	340	53
Rural development loan fund			
12 4233 0 3 452	Direct Loan Limitation	14,616	2,280
	Outlays	1,359	212
Soil Conservation Service			
Conservation operations			
12 1000 0 1 302	Budget Authority	501,048	78,164
	401(C) Authority - Off. Coll.	9,527	1,486
	Outlays	471,427	73,543
Resource conservation and development			
12 1010 0 1 302	Budget Authority	26,796	4,180
	401(C) Authority - Off. Coll.	4,600	718
	Outlays	20,624	3,218

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Watershed planning			
12 1066 0 1 301	Budget Authority	9,317	1,453
	401(C) Authority - Off. Coll.	213	33
	Outlays	8,282	1,292
River basin surveys & investigations			
12 1069 0 1 301	Budget Authority	12,971	2,023
	401(C) Authority - Off. Coll.	166	26
	Outlays	12,307	1,920
Watershed and flood prevention operations			
12 1072 0 1 301	Budget Authority	181,956	28,385
	401(C) Authority - Off. Coll.	11,849	1,848
	Outlays	134,123	20,923
Great plains conservation program			
12 2268 0 1 302	Budget Authority	21,646	3,377
	401(C) Authority - Off. Coll.	41	6
	Outlays	9,847	1,536
Miscellaneous contributed funds (Water resources)			
12 8210 0 7 301	401(C) Authority	482	75
	Outlays	482	75
Miscellaneous contributed funds (Conservation and land management)			
12 8210 0 7 302	401(C) Authority	100	16
Animal and Plant Health Inspection Service			
Salaries and expenses			
12 1600 0 1 352	Budget Authority	353,167	55,094
	401(C) Authority - Off. Coll.	17,434	2,720
	Outlays	311,975	48,668
Buildings and facilities			
12 1601 0 1 352	Budget Authority	2,658	415
Federal Grain Inspection Service			
Salaries and expenses			
12 2400 0 1 352	Budget Authority	8,734	1,363
	Outlays	7,520	1,173
Inspection and weighing services			
12 4050 0 3 352	401(C) Authority - Off. Coll.	36,856	5,750
	Outlays	36,856	5,750
Agricultural Marketing Service			
Marketing services			
12 2500 0 1 352	Budget Authority	35,816	5,587
	401(C) Authority - Off. Coll.	37,278	5,815
	Outlays	47,414	7,396
Payments to States and possessions			
12 2501 0 1 352	Budget Authority	983	153
	Outlays	153	24
Perishable Agricultural Commodities Act fund			
12 5070 0 2 352	401(C) Authority	5,500	858
	Outlays	4,131	644
Funds for strengthening markets, income, and supply (section 32)			
12 5209 0 2 605	401(C) Authority	522,746	81,548
	Outlays	191,000	29,796
Milk market orders assessment fund			
12 8412 0 8 351	401(C) Authority - Off. Coll.	38,709	6,039
	Outlays	38,709	6,039
Miscellaneous trust funds			
12 9972 0 7 352	401(C) Authority	85,979	13,413
	Outlays	55,673	8,685
Office of Transportation			
Office of Transportation			
12 2800 0 1 352	Budget Authority	2,585	403
	Outlays	2,130	332
Food Safety and Inspection Service			
Salaries and expenses			
12 3700 0 1 554	Budget Authority	436,157	68,040
	401(C) Authority - Off. Coll.	46,384	7,236
	Outlays	443,287	69,153
Expenses and refunds, inspection and grading of farm products			
12 8137 0 7 352	401(C) Authority	1,150	179
	Outlays	986	154
Food and Nutrition Service			
Cash and commodities for selected groups			
12 3503 0 1 605	Budget Authority	207,909	32,434
	401(C) Authority	40,000	6,240
	Outlays	212,564	33,160
Food stamp program			
12 3505 0 1 605	401(C) Authority	54,089	8,438
	Outlays	21,636	3,375

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Food program administration			
12 3508 0 1 605	Budget Authority	96,135	14,997
	Outlays	82,676	12,897
Supplemental feeding programs			
12 3510 0 1 605	Budget Authority	3,000	468
	Outlays	3,000	468
Child nutrition programs			
12 3539 0 1 605	401(C) Authority	6,935	1,082
	Outlays	6,935	1,082
Human Nutrition Information Service			
Salaries and expenses			
12 3501 0 1 352	Budget Authority	9,361	1,460
	Outlays	4,035	629
Packers and Stockyards Administration			
Packers and Stockyards Administration			
12 2600 0 1 352	Budget Authority	10,300	1,607
	Outlays	9,435	1,472
Agricultural Cooperative Service			
Salaries and expenses			
12 3000 0 1 352	Budget Authority	4,997	780
	Outlays	3,133	489
Forest Service			
Construction			
12 1103 0 1 302	Budget Authority	238,945	37,275
	401(C) Authority - Off. Coll.	2,835	442
	Outlays	142,140	22,174
Forest research			
12 1104 0 1 302	Budget Authority	147,957	23,081
	401(C) Authority - Off. Coll.	1,262	197
	Outlays	112,674	17,577
State and private forestry			
12 1105 0 1 302	Budget Authority	91,198	14,227
	401(C) Authority - Off. Coll.	550	86
	Outlays	67,763	10,571
National forest system			
12 1106 0 1 302	Budget Authority	1,533,654	239,250
	Outlays	1,329,678	207,429
Land acquisition			
12 5004 0 2 303	Budget Authority	67,111	10,469
	Outlays	26,844	4,188
Range betterment fund			
12 5207 0 2 302	Budget Authority	4,700	733
	Outlays	3,760	587
Acquisition of lands for national forests, special acts			
12 5208 0 2 302	Budget Authority	1,010	158
	Outlays	851	133
Acquisition of lands to complete land exchanges			
12 5216 0 2 302	Budget Authority	1,070	167
	Outlays	949	148
Operations and maintenance of quarters			
12 5219 0 2 302	401(C) Authority	6,078	943
	Outlays	4,881	761
Resource management-timber receipts			
12 5220 0 1 302	Budget Authority	104,681	16,330
	Outlays	83,745	13,064
Cooperative work trust fund			
12 8028 0 7 302	401(C) Authority	315,117	49,158
	Outlays	265,959	41,490
Highway Construction: Mount St. Helens National Monument			
12 8029 0 7 401	Budget Authority	5,574	870
	Outlays	1,115	174
Gifts, donations and bequests for forest and rangeland research			
12 8034 0 7 302	Budget Authority	94	15
	Outlays	94	15
Other appropriations			
12 9911 0 1 302	Budget Authority	38,242	5,966
	Outlays	35,183	5,489
Forest Service permanent appropriations			
12 9921 0 2 806	401(C) Authority	307,430	47,959
	Outlays	230,880	36,017
Forest Service permanent appropriations			
12 9922 0 2 302	Budget Authority	21,129	3,296
	401(C) Authority	140,747	21,957
	Outlays	122,939	19,178

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Reforestation trust fund			
20 8046 0 7 302	401(C) Other - incl. ob. limit	30,000	4,680
	Outlays	30,000	4,680
TOTAL FOR Department of Agriculture			
	Budget Authority	10,232,375	1,596,248
	401(C) Authority	14,301,203	2,230,988
	401(C) Authority - Off. Coll.	366,438	57,164
	401(C) Other - incl. ob. limit	30,000	4,680
	Direct Loan Limitation	18,815,580	2,935,230
	Direct Loan Floor	2,052,778	320,233
	Guaranteed Loan Limitation	9,522,125	1,485,452
	Obligation Limitation	1,833,704	286,058
	Outlays	24,477,833	3,818,542
Department of Commerce			
General Administration			
Salaries and expenses			
13 0120 0 1 376	Budget Authority	43,258	6,748
	Outlays	41,095	6,411
Grants and loans administration			
13 0125 0 1 452	Budget Authority	26,533	4,139
	Outlays	23,296	3,634
Economic development assistance programs			
13 2050 0 1 452	Budget Authority	190,037	29,646
	Guaranteed Loan Limitation	195,750	30,537
	Outlays	19,004	2,965
Bureau of the Census			
Salaries and expenses			
13 0401 0 1 376	Budget Authority	103,124	16,087
	401(C) Authority - Off. Coll.	8,000	1,248
	Outlays	90,499	14,118
Periodic censuses and programs			
13 0450 0 1 376	Budget Authority	595,107	92,836
	Outlays	578,444	90,237
Economic and Statistical Analysis			
Salaries and expenses			
13 1500 0 1 376	Budget Authority	35,352	5,515
	401(C) Authority - Off. Coll.	395	62
	Outlays	32,212	5,025
International Trade Administration			
Operations and administration			
13 1250 0 1 376	Budget Authority	179,248	27,963
	401(C) Authority - Off. Coll.	15,960	2,490
	Outlays	141,434	22,064
Export Administration			
Operations and administration			
13 0300 0 1 376	Budget Authority	42,775	6,673
	Outlays	29,943	4,671
Minority Business Development Agency			
Minority business development			
13 0201 0 1 376	Budget Authority	41,807	6,522
	Outlays	12,542	1,957
United States Travel and Tourism Administration			
Salaries and expenses			
13 0700 0 1 376	Budget Authority	14,614	2,280
	401(C) Authority - Off. Coll.	1,450	226
	Outlays	12,703	1,981
National Oceanic and Atmospheric Administration			
Operations, research, and facilities			
13 1450 0 1 306	Budget Authority	1,351,997	210,912
	401(C) Authority - Off. Coll.	11,434	1,784
	Outlays	930,791	145,203
Coastal energy impact fund			
13 4315 0 3 452	401(C) Authority - Off. Coll.	5,200	811
	Outlays	5,200	811
Federal ship financing fund, fishing vessels			
13 4417 0 3 376	401(C) Authority - Off. Coll.	7,300	1,139
	Guaranteed Loan Limitation	480,000	74,880
	Outlays	7,300	1,139
Fishermen's contingency fund			
13 5120 0 2 376	Budget Authority	752	117
	Outlays	714	111
Foreign fishing observer fund			
13 5122 0 2 376	Budget Authority	2,028	316
	Outlays	1,947	304

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Fisheries promotional fund			
13 5124 0 2 376	Budget Authority	3,135	489
	Outlays	1,724	269
Promote and develop fishery products and research pertaining to American			
13 5139 0 2 376	401(C) Other - incl. ob. limit	4,591	716
	Outlays	2,468	385
Aviation weather services program			
13 8105 0 7 306	Budget Authority	29,981	4,677
	Outlays	29,981	4,677
Patent and Trademark Office			
Salaries and expenses			
13 1006 0 1 376	Budget Authority	115,458	18,011
	401(C) Authority - Off. Coll.	180,032	28,085
	Outlays	162,520	25,353
Technology Administration			
Information products and services			
13 8546 0 7 376	401(C) Authority	49,528	7,726
	Outlays	33,828	5,277
National Institute of Standards and Technology			
Scientific and technical research and services			
13 0500 0 1 376	Budget Authority	167,861	26,186
	Outlays	129,687	20,232
Working capital fund			
13 4650 0 4 376	Budget Authority	1,608	251
	Outlays	804	125
National Telecommunications and Information Administration			
Salaries and expenses			
13 0550 0 1 376	Budget Authority	14,609	2,279
	Outlays	11,687	1,823
Public telecommunications facilities, planning and construction			
13 0551 0 1 503	Budget Authority	20,919	3,263
	Outlays	2,427	379
TOTAL FOR Department of Commerce			
	Budget Authority	2,980,203	464,910
	401(C) Authority	49,528	7,726
	401(C) Authority - Off. Coll.	229,771	35,845
	401(C) Other - incl. ob. limit	4,591	716
	Guaranteed Loan Limitation	675,750	105,417
	Outlays	2,302,250	359,151
Department of Defense--Military			
Military Personnel			
Military personnel, Marine Corps			
17 1105 0 1 051	Budget Authority	5,812,518	621,939
	Outlays	5,521,892	590,842
Reserve personnel, Marine Corps			
17 1108 0 1 051	Budget Authority	312,670	33,456
	Outlays	268,896	28,772
Reserve personnel, Navy			
17 1405 0 1 051	Budget Authority	1,575,460	168,574
	Outlays	1,417,914	151,717
Military personnel, Navy			
17 1453 0 1 051	Budget Authority	19,394,887	2,075,253
	Outlays	18,425,143	1,971,490
Military personnel, Army			
21 2010 0 1 051	Budget Authority	24,962,507	2,670,988
	Outlays	23,589,569	2,524,084
National Guard personnel, Army			
21 2060 0 1 051	Budget Authority	3,264,156	349,265
	Outlays	2,937,740	314,338
Reserve personnel, Army			
21 2070 0 1 051	Budget Authority	2,190,921	234,429
	Outlays	2,037,557	218,019
Military personnel, Air Force			
57 3500 0 1 051	Budget Authority	20,595,184	2,203,685
	Outlays	19,565,425	2,093,500
Reserve personnel, Air Force			
57 3700 0 1 051	Budget Authority	649,564	69,503
	Outlays	597,599	63,943
National Guard personnel, Air Force			
57 3850 0 1 051	Budget Authority	1,016,445	108,760
	Outlays	946,310	101,255
Operation and Maintenance			
Operation and maintenance, Marine Corps			
17 1106 0 1 051	Budget Authority	1,902,709	203,590
	Outlays	1,408,005	150,657

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Operation and maintenance, Marine Corps Reserve			
17 1107 0 1 051	Budget Authority	81,137	8,682
	Outlays	52,171	5,582
Operation and maintenance, Navy			
17 1804 0 1 051	Budget Authority	26,360,916	2,820,618
	Outlays	19,770,687	2,115,464
Operation and maintenance, Navy Reserve			
17 1806 0 1 051	Budget Authority	1,022,076	109,362
	Outlays	735,895	78,741
National Board for the Promotion of Rifle Practice, Army			
21 1705 0 1 051	Budget Authority	4,497	481
	Outlays	4,385	469
Operation and maintenance, Army			
21 2020 0 1 051	Budget Authority	23,348,989	2,498,342
	Outlays	18,679,191	1,998,673
Operation and maintenance, Army National Guard			
21 2065 0 1 051	Budget Authority	1,883,488	201,533
	Outlays	1,544,460	165,257
Operation and maintenance, Army Reserve			
21 2080 0 1 051	Budget Authority	832,120	89,037
	Outlays	733,098	78,441
Operation and maintenance, Air Force			
57 3400 0 1 051	Budget Authority	22,931,335	2,453,653
	Outlays	17,886,441	1,913,849
Operation and maintenance, Air Force Reserve			
57 3740 0 1 051	Budget Authority	1,081,486	115,719
	Outlays	954,952	102,180
Operation and maintenance, Air National Guard			
57 3840 0 1 051	Budget Authority	2,061,112	220,539
	Outlays	1,793,167	191,869
Operation and maintenance, Defense agencies			
97 0100 0 1 051	Budget Authority	8,054,745	861,858
	Outlays	6,927,081	741,198
Court of Military Appeals, Defense			
97 0104 0 1 051	Budget Authority	3,679	394
	Outlays	3,164	339
Drug interdiction, Defense			
97 0105 0 1 051	Budget Authority	219,240	23,459
	Outlays	164,430	17,594
Goodwill games			
97 0106 0 1 051	Budget Authority	5,220	559
	Outlays	2,297	246
Foreign currency fluctuations, Defense			
97 0801 0 1 051	Unobligated Balances - Defense	414,152	44,314
Humanitarian assistance			
97 0819 0 1 051	Budget Authority	10,440	1,117
	Outlays	6,139	657
Procurement			
Procurement, Marine Corps			
17 1109 0 1 051	Budget Authority	1,348,681	144,309
	Unobligated Balances - Defense	266,802	28,548
	Outlays	109,853	11,754
Aircraft procurement, Navy			
17 1506 0 1 051	Budget Authority	9,723,508	1,040,415
	Unobligated Balances - Defense	1,865,544	199,613
	Outlays	1,274,796	136,403
Weapons procurement, Navy			
17 1507 0 1 051	Budget Authority	6,358,973	680,411
	Unobligated Balances - Defense	2,295,631	245,633
	Outlays	952,007	101,865
Shipbuilding and conversion, Navy			
17 1611 0 1 051	Budget Authority	9,951,878	1,064,851
	Unobligated Balances - Defense	9,802,211	1,048,837
	Outlays	1,027,212	109,911
Other procurement, Navy			
17 1810 0 1 051	Budget Authority	4,828,908	516,693
	Unobligated Balances - Defense	1,804,590	193,091
	Outlays	669,984	71,688
Aircraft procurement, Army			
21 2031 0 1 051	Budget Authority	2,998,147	320,802
	Unobligated Balances - Defense	555,538	59,443
	Outlays	543,713	58,178
Missile procurement, Army			
21 2032 0 1 051	Budget Authority	2,706,056	289,548
	Unobligated Balances - Defense	779,755	83,434
	Outlays	209,148	22,379

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Procurement of weapons and tracked combat vehicles, Army			
21 2033 0 1 051	Budget Authority	2,944,449	315,056
	Unobligated Balances - Defense	1,303,644	139,490
	Outlays	195,413	20,910
Procurement of ammunition, Army			
21 2034 0 1 051	Budget Authority	2,093,424	223,996
	Unobligated Balances - Defense	168,801	18,062
	Outlays	565,556	60,514
Other procurement, Army			
21 2035 0 1 051	Budget Authority	4,864,989	520,554
	Unobligated Balances - Defense	1,602,125	171,427
	Outlays	375,092	40,135
Aircraft procurement, Air Force			
57 3010 0 1 051	Budget Authority	16,306,743	1,744,822
	Unobligated Balances - Defense	6,053,661	647,742
	Outlays	1,475,787	157,909
Missile procurement, Air Force			
57 3020 0 1 051	Budget Authority	7,433,693	795,405
	Unobligated Balances - Defense	2,758,717	295,183
	Outlays	2,537,911	271,557
Other procurement, Air Force			
57 3080 0 1 051	Budget Authority	8,512,255	910,811
	Unobligated Balances - Defense	2,139,693	228,947
	Outlays	5,219,454	558,482
Procurement, Defense agencies			
97 0300 0 1 051	Budget Authority	1,233,541	131,989
	Unobligated Balances - Defense	349,815	37,430
	Outlays	443,339	47,437
National guard and reserve equipment			
97 0350 0 1 051	Budget Authority	1,188,908	127,213
	Unobligated Balances - Defense	442,388	47,336
	Outlays	97,877	10,473
Defense production act purchases			
97 0360 0 1 051	Budget Authority	34,974	3,742
	Unobligated Balances - Defense	45,850	4,906
Chemical agents and munitions destruction, Defense			
97 0390 0 1 051	Budget Authority	187,397	20,051
	Unobligated Balances - Defense	31,788	3,401
	Outlays	132,872	14,217
Research, Development, Test, and Evaluation			
Research, development, test, and evaluation, Navy			
17 1319 0 1 051	Budget Authority	9,731,639	1,041,285
	Unobligated Balances - Defense	482,879	51,668
	Outlays	5,413,957	579,293
Research, development, test, and evaluation, Army			
21 2040 0 1 051	Budget Authority	5,352,817	572,751
	Unobligated Balances - Defense	395,274	42,294
	Outlays	3,103,969	332,125
Research, development, test, and evaluation, Air Force			
57 3600 0 1 051	Budget Authority	15,328,372	1,640,136
	Unobligated Balances - Defense	1,708,045	182,761
	Outlays	8,688,573	929,677
Research, development, test, and evaluation, Defense agencies			
97 0400 0 1 051	Budget Authority	8,542,111	914,006
	Unobligated Balances - Defense	629,063	67,310
	Outlays	4,860,722	520,097
Developmental test and evaluation, Defense			
97 0450 0 1 051	Budget Authority	155,890	16,680
	Unobligated Balances - Defense	34,398	3,681
	Outlays	57,086	6,108
Operational test and evaluation, Defense			
97 0460 0 1 051	Budget Authority	74,080	7,927
	Unobligated Balances - Defense	20,694	2,214
	Outlays	41,984	4,492
Military Construction			
Military construction, Navy			
17 1205 0 1 051	Budget Authority	1,647,242	176,255
	Unobligated Balances - Defense	374,393	40,060
	Outlays	586,274	62,731
Military construction, Naval Reserve			
17 1235 0 1 051	Budget Authority	63,580	6,803
	Unobligated Balances - Defense	10,927	1,169
	Outlays	11,176	1,195
Military construction, Army			
21 2050 0 1 051	Budget Authority	1,197,423	128,124
	Unobligated Balances - Defense	437,348	46,796
	Outlays	490,431	52,476

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Military construction, Army National Guard			
21 2085 0 1 051	Budget Authority	239,241	25,599
	Unobligated Balances - Defense	44,743	4,788
	Outlays	34,078	3,646
Military construction, Army Reserve			
21 2086 0 1 051	Budget Authority	89,778	9,606
	Unobligated Balances - Defense	21,950	2,349
	Outlays	27,933	2,989
Military construction, Air Force			
57 3300 0 1 051	Budget Authority	1,279,867	136,946
	Unobligated Balances - Defense	649,510	69,498
	Outlays	559,519	59,868
Military construction, Air Force Reserve			
57 3730 0 1 051	Budget Authority	73,706	7,887
	Unobligated Balances - Defense	23,702	2,536
	Outlays	10,909	1,167
Military construction, Air National Guard			
57 3830 0 1 051	Budget Authority	165,482	17,707
	Unobligated Balances - Defense	53,309	5,704
	Outlays	21,879	2,341
Military construction, Defense agencies			
97 0500 0 1 051	Budget Authority	689,024	73,726
	Unobligated Balances - Defense	356,803	38,178
	Outlays	292,832	31,333
Foreign currency fluctuations, construction			
97 0803 0 1 051	Unobligated Balances - Defense	195,814	20,952
North Atlantic Treaty Organization infrastructure			
97 0804 0 1 051	Budget Authority	513,648	54,960
	Unobligated Balances - Defense	133,905	14,328
	Outlays	51,804	5,543
Family Housing			
Family housing, Navy and Marine Corps			
17 0703 0 1 051	Budget Authority	834,199	89,259
	Unobligated Balances - Defense	173,606	18,576
	Outlays	564,370	60,387
Family housing, Army			
21 0702 0 1 051	Budget Authority	1,594,787	170,642
	Unobligated Balances - Defense	120,034	12,844
	Outlays	960,300	102,752
Family housing, Air Force			
57 0704 0 1 051	Budget Authority	950,964	101,753
	Unobligated Balances - Defense	105,938	11,335
	Outlays	591,865	63,330
Family housing, Defense agencies			
97 0706 0 1 051	Budget Authority	21,611	2,312
	Unobligated Balances - Defense	176	19
	Outlays	12,201	1,306
Revolving and Management Funds			
Navy stock fund			
17 4911 0 4 051	Budget Authority	192,827	20,632
	Outlays	19,476	2,084
Army stock fund			
21 4991 0 4 051	Budget Authority	304,744	32,608
	Outlays	17,675	1,891
Air Force stock fund			
57 4921 0 4 051	Budget Authority	195,124	20,878
	Outlays	19,708	2,109
National defense stockpile transaction fund			
97 4555 0 3 051	Budget Authority	34,974	3,742
	Unobligated Balances - Defense	460,973	49,324
	Outlays	34,974	3,742
Defense stock fund			
97 4961 0 4 051	Budget Authority	26,100	2,793
	Outlays	5,716	612
TOTAL FOR Department of Defense--Military			
	Budget Authority	301,593,255	32,270,480
	Unobligated Balances - Defense	39,114,189	4,185,221
	Outlays	188,283,033	20,146,282
Department of Defense--Civil			
Cemeterial Expenses, Army			
Salaries and expenses			
21 1805 0 1 705	Budget Authority	13,944	2,175
	Outlays	9,858	1,538

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Corps of Engineers--Civil			
Inland waterways trust fund			
20 8861 0 7 301	Budget Authority	64,122	10,003
	Outlays	53,221	8,302
Flood control, Mississippi River and tributaries			
96 3112 0 1 301	Budget Authority	358,132	55,869
	401(C) Authority - Off. Coll.	195	30
	Outlays	293,863	45,842
General investigations			
96 3121 0 1 301	Budget Authority	152,582	23,803
	Outlays	105,892	16,519
Construction, general			
96 3122 0 1 301	Budget Authority	1,177,870	183,748
	401(C) Authority - Off. Coll.	250	39
	Outlays	459,619	71,701
Operation and maintenance, general (Water resources)			
96 3123 0 1 301	Budget Authority	1,272,690	198,540
	401(C) Authority - Off. Coll.	3,500	546
	Outlays	1,031,952	160,985
Operation and maintenance, general (Recreational resources)			
96 3123 0 1 303	Budget Authority	15,909	2,482
	Outlays	12,409	1,936
General expenses			
96 3124 0 1 301	Budget Authority	131,599	20,529
	Outlays	105,279	16,423
Flood control and coastal emergencies			
96 3125 0 1 301	Budget Authority	21,128	3,296
	Outlays	10,564	1,648
Regulatory program			
96 3126 0 1 301	Budget Authority	68,490	10,684
	Outlays	63,930	9,973
Rivers and harbors contributed funds			
96 8862 0 7 301	401(C) Authority	169,465	26,437
	Outlays	105,068	16,391
Harbor maintenance trust fund			
96 8863 0 7 301	Budget Authority	164,000	25,584
	Outlays	164,000	25,584
Permanent appropriations (Water resources)			
96 9921 0 2 301	401(C) Authority	7,000	1,092
	Outlays	4,508	703
Permanent appropriations (Other general purpose fiscal assistance)			
96 9921 0 2 806	401(C) Authority	5,000	780
Soldiers' and Airmen's Home			
Operation and maintenance			
84 8931 0 7 705	Budget Authority	40,073	6,251
	401(C) Authority - Off. Coll.	144	22
	Outlays	35,208	5,492
Capital outlays			
84 8932 0 7 705	Budget Authority	15,472	2,414
	Outlays	464	72
Forest and Wildlife Conservation, Military Reservations			
Wildlife conservation			
97 5095 0 2 303	401(C) Authority	2,100	328
	Outlays	1,260	197
TOTAL FOR Department of Defense--Civil			
	Budget Authority	3,496,011	545,378
	401(C) Authority	183,565	28,637
	401(C) Authority - Off. Coll.	4,089	637
	Outlays	2,457,095	383,306
Department of Health and Human Services, except Social Security			
Food and Drug Administration			
Program expenses			
75 0600 0 1 554	Budget Authority	549,206	85,676
	Outlays	450,349	70,254
Buildings and facilities			
75 0603 0 1 554	Budget Authority	25,004	3,901
	Outlays	2,000	312
Revolving fund for certification and other services			
75 4309 0 3 554	401(C) Authority - Off. Coll.	3,187	497
	Outlays	3,187	497
Health Resources and Services Administration			
Vaccine improvement program trust fund			
20 8175 0 7 551	Budget Authority	1,566	244
	Outlays	783	122

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Health resources and services (Health care services)			
75 0350 0 1 551	Budget Authority	988,062	154,138
	Budget Authority - Spec. Rules	10,068	10,068
	401(C) Authority - Off. Coll.	365	57
	Direct Loan Limitation	522	81
	Outlays	599,243	98,580
Health resources and services (Education and training of health care wor			
75 0350 0 1 553	Budget Authority	207,545	32,377
	Outlays	124,527	19,426
Indian Health Service			
Tribal health administration			
75 0390 0 1 551	Budget Authority	79,995	12,479
	Budget Authority - Spec. Rules	20,020	20,020
	401(C) Authority - Spec. Rules	60	60
	Outlays	75,047	24,410
Indian health facilities			
75 0391 0 1 551	Budget Authority - Spec. Rules	1,291	1,291
	Outlays	258	258
Centers for Disease Control			
Disease control, research, and training (Health care services)			
75 0943 0 1 551	Budget Authority	904,998	141,180
	401(C) Authority - Off. Coll.	800	125
	Outlays	507,599	79,186
Disease control, research, and training (Health research)			
75 0943 0 1 552	Budget Authority	124,886	19,482
	Outlays	83,674	13,053
National Institutes of Health			
National Library of Medicine (Health research)			
75 0807 0 1 552	Budget Authority	26,649	4,157
	Outlays	16,522	2,577
National Library of Medicine (Education and training of health care work			
75 0807 0 1 553	Budget Authority	51,183	7,985
	Outlays	31,733	4,950
John E. Fogarty International Center			
75 0819 0 1 552	Budget Authority	16,666	2,600
	Outlays	8,833	1,378
Buildings and facilities			
75 0838 0 1 552	Budget Authority	40,227	6,275
	Outlays	20,114	3,138
National Institute on Aging (Health research)			
75 0843 0 1 552	Budget Authority	224,269	34,986
	Outlays	69,523	10,846
National Institute on Aging (Education and training of health care work			
75 0843 0 1 553	Budget Authority	8,896	1,388
	Outlays	3,647	569
National Institute of Child Health and Human Development (Health researc			
75 0844 0 1 552	Budget Authority	428,619	66,865
	Outlays	137,158	21,397
National Institute of Child Health and Human Development (Education and			
75 0844 0 1 553	Budget Authority	16,570	2,585
	Outlays	1,657	258
Office of the Director (Health research)			
75 0846 0 1 552	Budget Authority	69,156	10,788
	Outlays	42,877	6,689
Office of the Director (Education and training of health care work force			
75 0846 0 1 553	Budget Authority	7,183	1,121
	Outlays	4,310	672
Research resources (Health research)			
75 0848 0 1 552	Budget Authority	371,846	58,008
	Outlays	185,923	29,004
Research resources (Education and training of health care work force)			
75 0848 0 1 553	Budget Authority	2,374	370
	Outlays	119	19
National Cancer Institute (Health research)			
75 0849 0 1 552	Budget Authority	1,609,954	251,153
	Outlays	740,579	115,530
National Cancer Institute (Education and training of health care work fo			
75 0849 0 1 553	Budget Authority	34,780	5,426
	Outlays	1,043	163
National Institute of General Medical Sciences (Health research)			
75 0851 0 1 552	Budget Authority	635,228	99,096
	Outlays	254,091	39,638
National Institute of General Medical Sciences (Education and training o			
75 0851 0 1 553	Budget Authority	77,337	12,065
	Outlays	28,615	4,464

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Institute of Environmental Health Sciences (Health research)			
75 0862 0 1 552	Budget Authority	224,605	35,038
	Outlays	137,009	21,373
National Institute of Environmental Health Sciences (Education and train			
75 0862 0 1 553	Budget Authority	9,838	1,535
	Outlays	4,919	767
National Heart, Lung and Blood Institute (Health research)			
75 0872 0 1 552	Budget Authority	1,049,642	163,744
	Outlays	398,864	62,223
National Heart, Lung and Blood Institute (Education and training of heal			
75 0872 0 1 553	Budget Authority	43,706	6,818
	Outlays	1,748	273
National Institute of Dental Research (Health research)			
75 0873 0 1 552	Budget Authority	131,182	20,464
	Outlays	66,903	10,437
National Institute of Dental Research (Education and training of health			
75 0873 0 1 553	Budget Authority	5,963	930
	Outlays	3,280	512
National Institute of Diabetes and Digestive and Kidney Diseases (Health			
75 0884 0 1 552	Budget Authority	562,461	87,744
	Outlays	202,486	31,588
National Institute of Diabetes and Digestive and Kidney Diseases (Educat			
75 0884 0 1 553	Budget Authority	23,029	3,593
	Outlays	6,218	970
National Institute of Allergy and Infectious Diseases (Health research)			
75 0885 0 1 552	Budget Authority	760,728	118,674
	Outlays	220,611	34,415
National Institute of Allergy and Infectious Diseases (Education and tra			
75 0885 0 1 553	Budget Authority	15,347	2,394
	Outlays	2,302	359
National Institute of Neurological Disorders and Stroke (Health research			
75 0886 0 1 552	Budget Authority	489,497	76,362
	Outlays	181,114	28,254
National Institute of Neurological Disorcers and Stroke (Education and t			
75 0886 0 1 553	Budget Authority	12,935	2,018
	Outlays	3,751	585
National Eye Institute (Health research)			
75 0887 0 1 552	Budget Authority	235,614	36,756
	Outlays	77,753	12,129
National Eye Institute (Education and training of health care work force			
75 0887 0 1 553	Budget Authority	6,214	969
	Outlays	559	87
National Institute of Arthritis and Musculoskeletal and Skin Diseases (H			
75 0888 0 1 552	Budget Authority	160,885	25,098
	Outlays	57,919	9,035
National Institute of Arthritis and Musculoskeletal and Skin Diseases (E			
75 0888 0 1 553	Budget Authority	6,263	977
	Outlays	1,816	283
National Center for Nursing Research (Health research)			
75 0889 0 1 552	Budget Authority	26,464	4,128
	Outlays	7,410	1,156
National Center for Nursing Research (Education and training of health c			
75 0889 0 1 553	Budget Authority	4,003	624
	Outlays	1,001	156
National Institute of Deafness and Other Communication Disorders (Health			
75 0890 0 1 552	Budget Authority	87,885	13,710
	Outlays	32,517	5,073
National Institute of Deafness and Other Communication Disorders (Educat			
75 0890 0 1 553	Budget Authority	2,526	394
	Outlays	733	114
Alcohol, Drug Abuse, and Mental Health Administration			
Federal subsidy for Saint Elizabeths Hospital			
75 1300 0 1 551	Budget Authority	24,755	3,862
	Outlays	24,755	3,862
Alcohol, drug abuse, and mental health (Health care services)			
75 1361 0 1 551	Budget Authority	1,161,831	181,246
	Outlays	662,244	103,310
Alcohol, drug abuse, and mental health (Health research)			
75 1361 0 1 552	Budget Authority	720,244	112,358
	Outlays	597,803	93,257
Alcohol, drug abuse, and mental health (Education and training of health			
75 1361 0 1 553	Budget Authority	46,914	7,319
	Outlays	34,716	5,416

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Office of Assistant Secretary for Health			
Public health service management (Health care services)			
75 1101 0 1 551	Budget Authority	46,179	7,204
	Outlays	26,322	4,106
Public health service management (Health research)			
75 1101 0 1 552	Budget Authority	27,200	4,243
	Outlays	18,224	2,843
Health Care Financing Administration			
Federal supplementary medical insurance trust fund			
20 8004 0 7 571	401(C) Other - incl. ob. limit	57,920	9,036
	401(C) Authority - Spec. Rules	601,000	601,000
	Obligation Limitation	1,169,435	182,432
	Outlays	1,737,165	778,242
Federal hospital insurance trust fund			
20 8005 0 7 571	401(C) Other - incl. ob. limit	206,142	32,158
	401(C) Authority - Spec. Rules	1,143,000	1,143,000
	Obligation Limitation	997,458	155,603
	Outlays	2,150,649	1,300,194
Federal catastrophic drug insurance trust fund			
20 8183 0 7 571	401(C) Authority - Spec. Rules	2,000	2,000
	Outlays	2,000	2,000
Federal supplementary medical insurance trust fund, catastrophic			
20 8184 0 7 571	401(C) Authority - Spec. Rules	40,000	40,000
	Obligation Limitation	126,698	19,765
	Outlays	165,435	59,568
Program management (Health care services)			
75 0511 0 1 551	Budget Authority	87,442	13,641
	Outlays	74,326	11,595
Program management (Health research)			
75 0511 0 1 552	Budget Authority	10,358	1,616
	Outlays	8,286	1,293
Social Security Administration			
Supplemental security income program			
75 0406 0 1 609	Budget Authority	851,398	132,818
	Outlays	851,398	132,818
Special benefits for disabled coal miners			
75 0409 0 1 601	401(C) Authority	7,000	1,092
	Outlays	7,000	1,092
Family Support Administration			
Program administration			
75 1500 0 1 609	Budget Authority	86,972	13,568
	401(C) Authority - Off. Coll.	450	70
	Outlays	65,679	10,246
Family support payments to States			
75 1501 0 1 609	401(C) Authority	1,279,000	199,524
	Outlays	1,279,000	199,524
Low income home energy assistance			
75 1502 0 1 609	Budget Authority	1,444,061	225,274
	Outlays	1,314,096	204,999
Refugee and entrant assistance			
75 1503 0 1 609	Budget Authority	399,180	62,272
	Outlays	259,467	40,477
Community services block grant			
75 1504 0 1 506	Budget Authority	397,344	61,986
	Outlays	273,373	42,646
Work incentives			
75 1505 0 1 504	Budget Authority	95,463	14,892
	Outlays	89,735	13,999
Interim assistance to States for legalization			
75 1508 0 1 506	401(C) Other - incl. ob. limit	895,000	139,620
	Outlays	225,000	35,100
Payments to states for AFDC work programs			
75 1509 0 1 609	401(C) Other - incl. ob. limit	465,000	72,540
	Outlays	465,000	72,540
Human Development Services			
Social services block grant			
75 1634 0 1 506	401(C) Authority	2,700,000	421,200
	Outlays	2,565,000	400,140
Human development services			
75 1636 0 1 506	Budget Authority	2,689,201	419,515
	Outlays	1,480,228	230,916
Payments to States for foster care and adoption assistance			
75 1645 0 1 506	401(C) Authority - Spec. Rules	5,000	5,000
	Outlays	3,750	3,750

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Departmental Management			
General Departmental management			
75 0120 0 1 609	Budget Authority	72,129	11,252
	Outlays	50,490	7,876
Policy research			
75 0122 0 1 609	Budget Authority	8,212	1,281
	Outlays	3,285	512
Office of the Inspector General			
75 0128 0 1 609	Budget Authority	49,238	7,681
	Outlays	36,929	5,761
Office for Civil Rights			
75 0135 0 1 751	Budget Authority	17,212	2,685
	Outlays	15,663	2,443
Office of Consumer Affairs			
75 0137 0 1 506	Budget Authority	1,819	284
	Outlays	1,455	227
TOTAL FOR Department of Health and Human Services, except So			
	Budget Authority	18,598,138	2,901,312
	Budget Authority - Spec. Rules	31,379	31,379
	401(C) Authority	3,986,000	621,816
	401(C) Authority - Off. Coll.	4,802	749
	401(C) Other - incl. ob. limit	1,624,062	253,354
	401(C) Authority - Spec. Rules	1,791,060	1,791,060
	Direct Loan Limitation	522	81
	Obligation Limitation	2,293,591	357,800
	Outlays	19,290,797	4,537,931
Department of the Interior			
Department of the Interior			
Oil Spill Emergency Fund			
14 0119 0 1 306	Budget Authority	7,621	1,189
	Outlays	3,811	595
Bureau of Land Management			
Management of lands and resources			
14 1109 0 1 302	Budget Authority	529,902	82,665
	Outlays	462,605	72,167
Construction and access			
14 1110 0 1 302	Budget Authority	11,748	1,833
	Outlays	2,937	458
Payments in lieu of taxes			
14 1114 0 1 806	Budget Authority	109,620	17,101
	Outlays	109,620	17,101
Oregon and California grant lands			
14 1116 0 1 302	Budget Authority	64,238	10,021
	Outlays	47,536	7,416
Special acquisition of lands and minerals			
14 1117 0 1 302	401(C) Authority	1,300	203
	Outlays	1,300	203
Service charges, deposits, and forfeitures			
14 5017 0 2 302	Budget Authority	6,367	993
	Outlays	4,508	703
Land acquisition			
14 5033 0 2 302	Budget Authority	14,892	2,323
	Outlays	7,446	1,161
Operation and maintenance of quarters			
14 5048 0 2 302	401(C) Authority	261	41
	Outlays	217	34
Range improvements			
14 5132 0 2 302	Budget Authority	8,406	1,311
	Outlays	5,313	829
Miscellaneous permanent appropriations (Conservation and land management			
14 9921 0 2 302	401(C) Authority	7,308	1,140
	Outlays	7,045	1,099
Miscellaneous permanent appropriations (Other general purpose fiscal ass			
14 9921 0 2 806	401(C) Authority	81,291	12,681
Miscellaneous trust funds			
14 9971 0 7 302	Budget Authority	107	17
	401(C) Authority	626	98
	Outlays	373	58
Minerals Management Service			
Leasing and royalty management			
14 1917 0 1 302	Budget Authority	181,893	28,375
	Outlays	118,230	18,444
Payments to States from receipts under Mineral Leasing Act			
14 5003 0 2 806	401(C) Authority	372,996	58,187
	Outlays	343,156	53,532

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Office of Surface Mining Reclamation and Enforcement			
Regulation and technology			
14 1801 0 1 302	Budget Authority	108,372	16,906
	Outlays	63,181	9,857
Abandoned mine reclamation fund			
14 5015 0 2 302	Budget Authority	202,211	31,545
	Outlays	55,001	8,580
Bureau of Reclamation			
Loan program			
14 0667 0 1 301	Budget Authority	27,194	4,242
	Direct Loan Limitation	28,998	4,524
	Outlays	16,724	2,609
Construction program			
14 0684 0 1 301	Budget Authority	745,800	116,345
	401(C) Authority - Off. Coll.	4,000	624
	Outlays	630,472	98,354
Lower Colorado River Basin development fund			
14 4079 0 3 301	401(C) Authority - Off. Coll.	95,456	14,891
	Outlays	95,456	14,891
Upper Colorado River Basin fund			
14 4081 0 3 301	401(C) Authority - Off. Coll.	32,375	5,051
	Outlays	32,375	5,051
Working capital fund			
14 4524 0 4 301	Budget Authority	4,229	660
	Outlays	3,383	528
Emergency fund			
14 5043 0 2 301	Budget Authority	1,044	163
	Outlays	632	99
General investigations			
14 5060 0 2 301	Budget Authority	15,179	2,368
	401(C) Authority - Off. Coll.	75	12
	Outlays	9,850	1,537
Operation and maintenance			
14 5064 0 2 301	Budget Authority	199,208	31,076
	401(C) Authority - Off. Coll.	10,136	1,581
	Outlays	164,921	25,727
General administrative expenses			
14 5065 0 2 301	Budget Authority	51,585	8,047
	Outlays	46,427	7,243
Colorado River dam fund, Boulder Canyon project			
14 5656 0 2 301	401(C) Authority	45,100	7,036
	Outlays	25,842	4,031
Reclamation trust funds			
14 8070 0 7 301	401(C) Authority	52,217	8,146
	Outlays	49,293	7,690
Miscellaneous permanent appropriations (Other general purpose fiscal ass			
14 9922 0 2 806	401(C) Authority	282	44
	Outlays	226	35
Geological Survey			
Surveys, investigations and research			
14 0804 0 1 306	Budget Authority	483,490	75,424
	401(C) Authority	250	39
	401(C) Authority - Off. Coll.	75,405	11,763
	Outlays	534,959	83,453
Operation and maintenance of quarters			
14 5055 0 2 306	401(C) Authority	75	12
	Outlays	40	6
Bureau of Mines			
Mines and minerals			
14 0959 0 1 306	Budget Authority	169,720	26,476
	Outlays	115,410	18,004
Helium fund			
14 4053 0 3 306	401(C) Authority - Off. Coll.	3,453	539
	Outlays	3,453	539
United States Fish and Wildlife Service			
Resource management			
14 1611 0 1 303	Budget Authority	385,177	60,087
	401(C) Authority - Off. Coll.	5,776	901
	Outlays	314,470	49,057
Construction			
14 1612 0 1 303	Budget Authority	49,798	7,769
	Outlays	9,959	1,554
Land acquisition			
14 5020 0 2 303	Budget Authority	78,252	12,207
	Outlays	31,301	4,883

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Operation and maintenance of quarters			
14 5050 0 2 303	401(C) Authority	1,736	271
	Outlays	1,215	190
National wildlife refuge fund			
14 5091 0 2 806	Budget Authority	6,973	1,088
	401(C) Other - incl. ob. limit	6,040	942
	Outlays	9,395	1,466
Migratory bird conservation account			
14 5137 0 2 303	401(C) Authority	33,340	5,201
	Outlays	23,338	3,641
Sport fish restoration			
14 8151 0 7 303	401(C) Authority	162,606	25,367
	Outlays	56,912	8,878
Contributed funds			
14 8216 0 7 303	401(C) Authority	4,165	650
	Outlays	2,916	455
Miscellaneous permanent appropriations			
14 9923 0 2 303	401(C) Authority	128,200	19,999
	Outlays	64,100	10,000
National Park Service			
Operation of the national park system			
14 1036 0 1 303	Budget Authority	797,428	124,399
	401(C) Authority - Off. Coll.	2,800	437
	Outlays	603,606	94,163
John F. Kennedy Center for the Performing Arts			
14 1038 0 1 303	Budget Authority	5,515	860
	Outlays	3,585	559
Construction			
14 1039 0 1 303	Budget Authority	206,874	32,272
	401(C) Authority - Off. Coll.	11,000	1,716
	Outlays	42,031	6,557
National recreation and preservation			
14 1042 0 1 303	Budget Authority	15,659	2,443
	Outlays	12,527	1,954
Illinois and Michigan canal national heritage-corridor Commission			
14 1043 0 1 303	Budget Authority	264	41
	Outlays	132	21
Land acquisition			
14 5035 0 2 303	Budget Authority	65,532	10,223
	401(C) Authority	30,000	4,680
	Outlays	33,436	5,216
Operation and maintenance of quarters			
14 5049 0 2 303	401(C) Authority	8,632	1,347
	Outlays	6,474	1,010
Historic preservation fund			
14 5140 0 2 303	Budget Authority	31,842	4,967
	Outlays	12,737	1,987
Miscellaneous permanent appropriations			
14 9924 0 2 303	401(C) Authority	953	149
	Outlays	324	51
Bureau of Indian Affairs			
Operation of Indian programs (Conservation and land management)			
14 2100 0 1 302	Budget Authority	163,386	25,489
	Outlays	135,774	21,181
Operation of Indian programs (Area and regional development)			
14 2100 0 1 452	Budget Authority	610,297	95,206
	401(C) Authority - Off. Coll.	4,000	624
	Outlays	500,171	78,027
Operation of Indian programs (Elementary, secondary, and vocational educ			
14 2100 0 1 501	Budget Authority	284,411	44,368
	Outlays	241,749	37,713
Construction			
14 2301 0 1 452	Budget Authority	99,425	15,510
	Outlays	22,868	3,568
Revolving fund for loans			
14 4409 0 3 452	Direct Loan Limitation	13,000	2,028
	Outlays	13,000	2,028
Indian loan guaranty and insurance fund			
14 4410 0 3 452	Budget Authority	5,259	820
	Guaranteed Loan Limitation	41,470	6,469
	Outlays	3,015	470
Operation and maintenance of quarters			
14 5051 0 2 452	401(C) Authority	7,487	1,168
	Outlays	5,990	934

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Cooperative fund (papago)			
14 8366 0 7 452	401(C) Authority	1,353	211
Miscellaneous permanent appropriations (Area and regional development)			
14 9925 0 2 452	401(C) Authority	55,929	8,725
	Outlays	26,958	4,205
Miscellaneous permanent appropriations (Other general government)			
14 9925 0 2 808	401(C) Authority	1,000	156
	Outlays	1,000	156
Territorial and International Affairs			
Administration of territories			
14 0412 0 1 808	Budget Authority	54,996	8,579
	Outlays	30,578	4,770
Trust Territory of the Pacific Islands			
14 0414 0 1 808	Budget Authority	29,685	4,631
	Outlays	15,733	2,454
Compact of free association			
14 0415 0 1 808	Budget Authority	13,029	2,033
	401(C) Authority	13,000	2,028
	Outlays	26,029	4,061
Office of the Secretary			
Salaries and expenses			
14 0102 0 1 306	Budget Authority	52,460	8,184
	Outlays	44,591	6,956
Construction management			
14 0103 0 1 306	Budget Authority	1,912	298
	Outlays	1,723	269
Office of the Solicitor			
Office of the Solicitor			
14 0107 0 1 306	Budget Authority	26,554	4,142
	Outlays	23,899	3,728
Office of Inspector General			
Office of Inspector General			
14 0104 0 1 306	Budget Authority	20,160	3,145
	Outlays	18,144	2,830
TOTAL FOR Department of the Interior			
	Budget Authority	5,947,714	927,841
	401(C) Authority	1,010,107	157,579
	401(C) Authority - Off. Coll.	244,476	38,139
	401(C) Other - incl. ob. limit	6,040	942
	Direct Loan Limitation	41,998	6,552
	Guaranteed Loan Limitation	41,470	6,469
	Outlays	5,301,422	827,026
Department of Justice			
Department of Justice			
Emergency Drug Funding			
15 0331 0 1 751	Budget Authority	75,973	11,852
	Outlays	68,072	10,619
General Administration			
Salaries and expenses			
15 0129 0 1 751	Budget Authority	91,911	14,338
	Outlays	82,352	12,847
Office of the Inspector General			
15 0328 0 1 751	Budget Authority	9,754	1,522
	Outlays	8,740	1,363
United States Parole Commission			
Salaries and expenses			
15 1061 0 1 751	Budget Authority	11,658	1,819
	Outlays	10,026	1,564
Legal Activities			
Salaries and expenses, Foreign Claims Settlement Commission			
15 0100 0 1 153	Budget Authority	504	79
	Outlays	365	57
Salaries and expenses, General Legal Activities			
15 0128 0 1 752	Budget Authority	263,514	41,108
	Outlays	229,257	35,764
Fees and expenses of witnesses			
15 0311 0 1 752	Budget Authority	54,500	8,502
	Outlays	38,150	5,951
Salaries and expenses, Antitrust Division			
15 0319 0 1 752	Budget Authority	48,084	7,501
	Outlays	39,429	6,151
Salaries and expenses, United States Attorneys			
15 0322 0 1 752	Budget Authority	493,644	77,008
	Outlays	434,407	67,767

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Salaries and expenses, United States Marshals Service			
15 0324 0 1 752	Budget Authority	219,877	34,301
	401(C) Authority - Off. Coll.	4,108	641
	Outlays	201,997	31,512
Independent counsel			
15 0327 0 1 752	401(C) Authority	6,000	936
	Outlays	6,000	936
Salaries and expenses, Community Relations Service			
15 0500 0 1 752	Budget Authority	29,313	4,573
	Outlays	20,519	3,201
Support of United States prisoners			
15 1020 0 1 752	Budget Authority	114,944	17,931
	Outlays	63,219	9,862
Assets forfeiture fund			
15 5042 0 2 752	Budget Authority	338,014	52,731
	Outlays	135,206	21,093
United States trustees system fund			
15 5073 0 2 752	Budget Authority	50,706	7,910
	Outlays	43,100	6,724
Federal Bureau of Investigation			
Salaries and expenses			
15 0200 0 1 751	Budget Authority	1,542,715	240,664
	401(C) Authority - Off. Coll.	24,354	3,799
	Outlays	1,258,526	196,330
Drug Enforcement Administration			
Salaries and expenses			
15 1100 0 1 751	Budget Authority	570,066	88,930
	401(C) Authority - Off. Coll.	1,500	234
	Outlays	429,050	66,932
Immigration and Naturalization Service			
Salaries and expenses			
15 1217 0 1 751	Budget Authority	880,308	137,328
	401(C) Authority - Off. Coll.	3,817	595
	Outlays	708,063	110,457
Immigration legalization			
15 5086 0 2 751	401(C) Authority	54,792	8,548
	Outlays	49,313	7,693
Immigration user fee			
15 5087 0 2 751	401(C) Authority	105,000	16,380
	Outlays	99,750	15,561
Immigration examinations fee			
15 5088 0 2 751	401(C) Authority	54,000	8,424
	Outlays	51,300	8,003
Federal Prison System			
Buildings and facilities			
15 1003 0 1 753	Budget Authority	312,789	48,795
	Outlays	31,279	4,880
National Institute of Corrections			
15 1004 0 1 754	Budget Authority	10,101	1,576
	Outlays	4,040	630
Salaries and expenses			
15 1060 0 1 753	Budget Authority	1,016,225	158,531
	401(C) Authority - Off. Coll.	12,746	1,988
	Outlays	927,349	144,666
Federal Prison Industries, Incorporated			
15 4500 0 4 753	Budget Authority	20,880	3,257
	Obligation Limitation	2,517	393
	Outlays	2,517	393
Office of Justice Programs			
Justice assistance			
15 0401 0 1 754	Budget Authority	331,584	51,727
	Outlays	122,784	19,155
Crime victims fund			
15 5041 0 2 754	401(C) Authority	125,000	19,500
	Outlays	62,500	9,750
TOTAL FOR Department of Justice			
	Budget Authority	6,487,064	1,011,983
	401(C) Authority	344,792	53,788
	401(C) Authority - Off. Coll.	46,525	7,257
	Obligation Limitation	2,517	393
	Outlays	5,127,310	799,861
Department of Labor			
Employment and Training Administration			
Program administration			
16 0172 0 1 504	Budget Authority	75,971	11,851
	Outlays	60,093	9,375

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Training and employment services			
16 0174 0 1 504	Budget Authority	3,904,165	609,050
	Outlays	148,358	23,144
Community service employment for older Americans			
16 0175 0 1 504	Budget Authority	358,952	55,997
	Outlays	65,688	10,247
State unemployment insurance and employment service operations (Training			
16 0179 0 1 504	Budget Authority	23,552	3,674
	Outlays	5,912	922
Federal unemployment benefits and allowances (Training and employment)			
16 0326 0 1 504	Budget Authority	80,000	12,480
	Outlays	47,854	7,465
Federal unemployment benefits and allowances (Unemployment compensation)			
16 0326 0 1 603	401(C) Authority	166,000	25,896
	Outlays	166,000	25,896
Unemployment trust fund (Training and employment)			
20 8042 0 7 504	Obligation Limitation	1,092,587	170,444
	Outlays	458,023	71,452
Unemployment trust fund (Unemployment compensation)			
20 8042 0 7 603	401(C) Other - incl. ob. limit	105,800	16,505
	Obligation Limitation	1,753,500	273,546
	Outlays	1,859,300	290,051
Labor-Management Services			
Salaries and expenses			
16 0104 0 1 505	Budget Authority	77,083	12,025
	Outlays	65,366	10,197
Pension Benefit Guaranty Corporation			
Pension Benefit Guaranty Corporation fund			
16 4204 0 3 601	401(C) Other - incl. ob. limit	13,900	2,168
	Obligation Limitation	57,600	8,986
	Outlays	71,500	11,154
Employment Standards Administration			
Salaries and expenses			
16 0105 0 1 505	Budget Authority	227,211	35,445
	401(C) Authority - Off. Coll.	1,500	234
	Outlays	196,447	30,646
Special workers' compensation expenses			
16 9971 0 7 601	Obligation Limitation	543	85
	Outlays	543	85
Black lung disability trust fund			
20 8144 0 7 601	Budget Authority	60,003	9,360
	Outlays	60,003	9,360
Occupational Safety and Health Administration			
Salaries and expenses			
16 0400 0 1 554	Budget Authority	263,173	41,055
	Outlays	234,224	36,539
Mine Safety and Health Administration			
Salaries and expenses			
16 1200 0 1 554	Budget Authority	174,967	27,295
	Outlays	159,220	24,838
Bureau of Labor Statistics			
Salaries and expenses			
16 0200 0 1 505	Budget Authority	199,243	31,082
	401(C) Authority - Off. Coll.	1,100	172
	Outlays	170,656	26,623
Departmental Management			
Office of the Inspector General			
16 0106 0 1 505	Budget Authority	42,228	6,588
	Outlays	36,781	5,738
Salaries and expenses			
16 0165 0 1 505	Budget Authority	128,491	20,045
	Outlays	106,403	16,599
TOTAL FOR Department of Labor			
	Budget Authority	5,615,039	875,947
	401(C) Authority	166,000	25,896
	401(C) Authority - Off. Coll.	2,600	406
	401(C) Other - incl. ob. limit	119,700	18,673
	Obligation Limitation	2,904,230	453,061
	Outlays	3,912,371	610,331
Department of State			
Department of State			
FMS interest buydown			
11 8882 0 1 152	401(C) Authority	270,000	42,120

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Administration of Foreign Affairs			
Salaries and expenses			
19 0113 0 1 153	Budget Authority	1,905,326	297,230
	Outlays	1,562,367	243,729
Protection of foreign missions and officials			
19 0520 0 1 153	Budget Authority	9,500	1,482
	Outlays	2,850	445
Emergencies in the diplomatic and consular service			
19 0522 0 1 153	Budget Authority	4,698	733
	Direct Loan Limitation	626	98
	Outlays	3,223	503
Payment to the American Institute in Taiwan			
19 0523 0 1 153	Budget Authority	11,369	1,774
	Outlays	7,390	1,153
Acquisition and maintenance of buildings abroad			
19 0535 0 1 153	Budget Authority	250,763	39,119
	401(C) Authority - Off. Coll.	4,900	764
	Outlays	52,545	8,197
Representation allowances			
19 0545 0 1 153	Budget Authority	4,792	748
	Outlays	4,116	642
International Organizations and Conferences			
Contributions for international peacekeeping activities			
19 1124 0 1 153	Budget Authority	30,276	4,723
	Outlays	30,276	4,723
International conferences and contingencies			
19 1125 0 1 153	Budget Authority	6,269	978
	Outlays	4,263	665
Contributions to international organizations			
19 1126 0 1 153	Budget Authority	507,321	79,142
	401(C) Authority - Off. Coll.	40	6
	Outlays	481,995	75,191
International Commissions			
Salaries and expenses, IBWC			
19 1069 0 1 301	Budget Authority	11,034	1,721
	Outlays	9,489	1,480
Construction, IBWC			
19 1078 0 1 301	Budget Authority	3,314	517
	Outlays	663	103
American sections, international commissions			
19 1082 0 1 301	Budget Authority	4,608	719
	Outlays	3,115	486
International fisheries commissions			
19 1087 0 1 302	Budget Authority	11,012	1,718
	Outlays	11,001	1,716
Other			
United States emergency refugee and migration assistance fund			
11 0040 0 1 151	Budget Authority	52,200	8,143
International narcotics control			
11 1022 0 1 151	Budget Authority	105,601	16,474
	Outlays	36,960	5,766
Anti-terrorism assistance			
19 0114 0 1 152	Budget Authority	10,273	1,603
	Outlays	6,164	962
Soviet-East European research and training			
19 0118 0 1 153	Budget Authority	4,802	749
	Outlays	240	37
Payment to the Asia Foundation			
19 0525 0 1 154	Budget Authority	14,303	2,231
	Outlays	12,158	1,897
Migration and refugee assistance			
19 1143 0 1 151	Budget Authority	482,586	75,284
	Outlays	330,572	51,569
U.S. bilateral science and technology agreements			
19 1151 0 1 153	Budget Authority	2,088	326
	Outlays	2,088	326
Fishermen's guaranty fund			
19 5121 0 2 376	Budget Authority	1,804	282
	Outlays	1,804	282
International Center, Washington, D.C.			
19 5151 0 2 153	401(C) Authority	1,284	200
	Outlays	1,223	191

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
TOTAL FOR Department of State			
	Budget Authority	3,433,939	535,696
	401(C) Authority	271,284	42,320
	401(C) Authority - Off. Coll.	4,940	770
	Direct Loan Limitation	626	98
	Outlays	2,564,502	400,063
Department of the Treasury			
Departmental Offices			
Salaries and expenses			
20 0101 0 1 803	Budget Authority	62,191	9,702
	401(C) Authority - Off. Coll.	5,123	799
	Outlays	58,918	9,191
International affairs			
20 0171 0 1 803	Budget Authority	24,662	3,847
	Outlays	21,333	3,328
Federal Law Enforcement Training Center			
Salaries and expenses			
20 0104 0 1 751	Budget Authority	36,904	5,757
	Outlays	33,214	5,181
Acquisitions, construction, improvements, and related expenses			
20 0105 0 1 751	Budget Authority	20,880	3,257
	Outlays	8,770	1,368
Financial Management Service			
Salaries and expenses			
20 1801 0 1 803	Budget Authority	292,595	45,645
	Outlays	254,558	39,711
St Lawrence Seaway toll rebate program			
20 8865 0 7 808	Budget Authority	11,178	1,744
	Outlays	11,178	1,744
Federal Financing Bank			
Federal Financing Bank			
20 4521 0 4 803	401(C) Authority - Off. Coll.	2,000	312
	Outlays	2,000	312
Bureau of Alcohol, Tobacco and Firearms			
Salaries and expenses			
20 1000 0 1 751	Budget Authority	258,565	40,336
	Outlays	224,952	35,093
United States Customs Service			
Salaries and expenses			
20 0602 0 1 751	Budget Authority	1,109,457	173,075
	401(C) Authority	116,584	18,187
	Outlays	1,042,134	162,573
Operation and maintenance, air interdiction program			
20 0604 0 1 751	Budget Authority	155,830	24,309
	Outlays	85,707	13,370
Customs forfeiture fund			
20 5693 0 2 803	Budget Authority	10,440	1,629
	401(C) Authority	20,000	3,120
	Outlays	30,440	4,749
Customs services at small airports			
20 5694 0 2 808	Budget Authority	1,718	268
	Outlays	1,718	268
Refunds, transfers and expenses, unclaimed, abandoned and seized goods			
20 8789 0 7 803	401(C) Authority	18,560	2,895
	Outlays	18,560	2,895
Bureau of Engraving and Printing			
Bureau of Engraving and Printing fund			
20 4502 0 4 803	401(C) Authority - Off. Coll.	333,809	52,074
	Outlays	333,809	52,074
United States Mint			
Salaries and expenses			
20 1616 0 1 803	Budget Authority	50,470	7,873
	401(C) Authority - Off. Coll.	112,170	17,499
	Outlays	155,070	24,191
Bureau of the Public Debt			
Administering the public debt			
20 0560 0 1 803	Budget Authority	231,202	36,068
	Outlays	184,962	28,854
Internal Revenue Service			
Salaries and expenses			
20 0911 0 1 803	Budget Authority	93,707	14,618
	Outlays	73,091	11,402
Processing tax returns			
20 0912 0 1 803	Budget Authority	1,845,424	287,886
	Outlays	1,476,339	230,309

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Examinations and appeals			
20 0913 0 1 803	Budget Authority	2,093,626	326,606
	Outlays	1,926,136	300,477
Investigation, collection and taxpayer service			
20 0914 0 1 803	Budget Authority	1,539,447	240,154
	Outlays	1,385,502	216,138
Federal tax lien revolving fund			
20 4413 0 3 803	401(C) Authority - Off. Coll.	8,451	1,318
	Outlays	8,451	1,318
United States Secret Service			
Contribution for annuity benefits			
20 1407 0 1 751	401(C) Authority	18,792	2,932
	Outlays	18,792	2,932
Salaries and expenses			
20 1408 0 1 751	Budget Authority	382,330	59,643
	Outlays	324,981	50,697
TOTAL FOR Department of the Treasury			
	Budget Authority	8,220,626	1,282,417
	401(C) Authority	173,936	27,134
	401(C) Authority - Off. Coll.	461,553	72,002
	Outlays	7,680,615	1,198,175
Department of Health and Human Services, Social Security			
Social Security			
Federal old-age and survivors insurance trust fund			
20 8006 0 7 651	Obligation Limitation	1,645,738	256,736
	Outlays	1,216,480	189,772
Federal disability insurance trust fund			
20 8007 0 7 651	Obligation Limitation	549,802	85,770
	Outlays	435,064	67,870
TOTAL FOR Department of Health and Human Services, Social Se			
	Obligation Limitation	2,195,540	342,506
	Outlays	1,651,544	257,642
Department of Education			
Office of Elementary and Secondary Education			
Indian education			
91 0101 0 1 501	Budget Authority	74,785	11,666
	Outlays	10,844	1,692
Impact aid			
91 0102 0 1 501	Budget Authority	765,352	119,395
	Outlays	609,220	95,038
Compensatory education for the disadvantaged			
91 0900 0 1 501	Budget Authority	4,780,620	745,777
	Outlays	573,674	89,493
School improvement programs			
91 1000 0 1 501	Budget Authority	1,270,651	198,222
	Outlays	152,478	23,787
Office of Bilingual Education and Minority Languages Affairs			
Bilingual, immigrant, and refugee education			
91 1300 0 1 501	Budget Authority	206,079	32,148
	Outlays	24,729	3,858
Office of Special Education and Rehabilitative Services			
Education for the handicapped			
91 0300 0 1 501	Budget Authority	2,052,961	320,262
	Outlays	252,514	39,392
Rehabilitation services and handicapped research			
91 0301 0 1 506	Budget Authority	224,420	35,010
	401(C) Authority - Spec. Rules	60,921	60,921
	Outlays	219,713	73,866
Payments to institutions for the handicapped (Elementary, secondary, and			
91 0600 0 1 501	Budget Authority	5,570	869
	Outlays	5,570	869
Payments to institutions for the handicapped (Higher education)			
91 0601 0 1 502	Budget Authority	34,792	5,428
	Outlays	34,792	5,428
Payments to institutions for the handicapped (Higher education)			
91 0602 0 1 502	Budget Authority	68,902	10,749
	Outlays	64,768	10,104
Promotion of education for the blind			
91 8893 0 7 501	401(C) Authority	10	2
	Outlays	5	1
Office of Vocational and Adult Education			
Vocational and adult education			
91 0400 0 1 501	Budget Authority	1,120,699	174,829
	401(C) Authority	7,148	1,115
	Outlays	135,342	21,114

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Office of Postsecondary Education			
Student financial assistance			
91 0200 0 1 502	Budget Authority	6,070,150	946,943
	Outlays	1,125,827	175,629
Higher education			
91 0201 0 1 502	Budget Authority	590,621	92,137
	Outlays	88,890	13,867
Guaranteed student loans			
91 0230 0 1 502	401(C) Authority - Spec. Rules	41,120	41,120
	Outlays	26,130	26,130
College housing and academic facilities loans			
91 0242 0 1 502	Budget Authority	37,148	5,795
	Direct Loan Limitation	30,944	4,827
	Outlays	6,204	968
Howard University			
91 0603 0 1 502	Budget Authority	186,848	29,148
	Outlays	178,066	27,778
College housing loans			
91 4250 0 3 502	401(C) Authority - Off. Coll.	650	101
	Outlays	650	101
Office of Educational Research and Improvement			
Libraries			
91 0104 0 1 503	Budget Authority	143,237	22,345
	Outlays	50,563	7,888
Education research and statistics			
91 1100 0 1 503	Budget Authority	81,642	12,736
	Outlays	35,106	5,477
Departmental Management			
Office for civil rights			
91 0700 0 1 751	Budget Authority	44,877	7,001
	Outlays	37,248	5,810
Program administration (Research and general education aids)			
91 0800 0 1 503	Budget Authority	267,775	41,773
	Outlays	222,253	34,671
Office of the Inspector General			
91 1400 0 1 751	Budget Authority	20,028	3,125
	Outlays	16,624	2,593
TOTAL FOR Department of Education			
	Budget Authority	18,047,157	2,815,358
	401(C) Authority	7,158	1,117
	401(C) Authority - Off. Coll.	650	101
	401(C) Authority - Spec. Rules	102,041	102,041
	Direct Loan Limitation	30,944	4,827
	Outlays	3,871,210	665,554
Department of Energy			
Atomic Energy Defense Activities			
Atomic energy defense activities			
89 0220 0 1 053	Budget Authority	6,959,601	744,677
	Unobligated Balances - Defense	471,675	50,469
	Outlays	4,607,392	492,991
Atomic energy defense activities			
89 0221 0 1 053	Budget Authority	1,502,394	160,756
	Outlays	931,484	99,669
Energy Programs			
Geothermal resources development fund			
89 0206 0 1 271	Budget Authority	81	13
	Outlays	81	13
Federal Energy Regulatory Commission			
89 0212 0 1 276	Budget Authority	116,670	18,201
	Outlays	99,170	15,471
Fossil energy research and development			
89 0213 0 1 271	Budget Authority	398,764	62,207
	Outlays	159,506	24,883
Energy conservation			
89 0215 0 1 272	Budget Authority	389,580	60,774
	Outlays	97,395	15,194
Energy information administration			
89 0216 0 1 276	Budget Authority	66,561	10,384
	Outlays	43,265	6,749
Economic regulation			
89 0217 0 1 276	Budget Authority	22,872	3,568
	Outlays	14,409	2,248
Strategic petroleum reserve			
89 0218 0 1 274	Budget Authority	181,306	28,284
	Outlays	99,718	15,556

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Naval petroleum and oil shale reserves			
89 0219 0 1 271	Budget Authority	193,416	30,173
	Outlays	116,050	18,104
General science and research activities			
89 0222 0 1 251	Budget Authority	962,805	150,198
	Outlays	681,666	106,340
Energy supply, R&D activities			
89 0224 0 1 271	Budget Authority	2,238,928	349,273
	Outlays	1,119,464	174,636
Uranium supply and enrichment activities			
89 0226 0 1 271	Budget Authority	1,236,969	192,967
	Outlays	1,079,393	168,385
SPR petroleum			
89 0233 0 1 274	Budget Authority	161,093	25,131
	401(C) Authority	91,555	14,283
	Outlays	189,486	29,560
Emergency preparedness			
89 0234 0 1 274	Budget Authority	6,595	1,029
	Outlays	5,276	823
Clean coal technology			
89 0235 0 1 271	401(C) Authority	710,000	110,760
	Outlays	8,450	1,318
Payments to states under Federal Power Act			
89 5105 0 2 806	401(C) Authority	2,446	382
	Outlays	2,446	382
Nuclear waste disposal fund			
89 5227 0 2 271	Budget Authority	380,330	59,331
	Outlays	190,165	29,666
Power Marketing Administration			
Operation and maintenance, Southeastern Power Administration			
89 0302 0 1 271	Budget Authority	932	145
	Outlays	848	132
Operation and maintenance, Southwestern Power Administration			
89 0303 0 1 271	Budget Authority	8,196	1,279
	Outlays	4,713	735
Operation and maintenance, Alaska Power Administration			
89 0304 0 1 271	Budget Authority	763	119
	Outlays	366	57
Bonneville Power Administration fund			
89 4045 0 3 271	401(C) Authority - Off. Coll.	45,800	7,145
	Outlays	45,800	7,145
Colorado river basins power marketing fund, Western Area Power Administr			
89 4452 0 3 271	401(C) Authority - Off. Coll.	7,668	1,196
	Outlays	7,668	1,196
Construction, rehabilitation, operation and maintenance, Western Area Po			
89 5068 0 2 271	Budget Authority	41,376	6,455
	Outlays	14,234	2,221
Departmental Administration			
Departmental administration			
89 0228 0 1 276	Budget Authority	427,648	66,713
	Outlays	256,589	40,028
TOTAL FOR Department of Energy			
	Budget Authority	15,296,880	1,971,677
	401(C) Authority	804,001	125,425
	401(C) Authority - Off. Coll.	53,468	8,341
	Unobligated Balances - Defense	471,675	50,469
	Outlays	9,775,034	1,253,502
Environmental Protection Agency			
Environmental Protection Agency			
Hazardous substance superfund			
20 8145 0 7 304	Budget Authority	1,476,778	230,377
	401(C) Authority - Off. Coll.	13,200	2,059
	Obligation Limitation	198,930	31,033
	Outlays	426,698	66,565
Leaking underground storage tank trust fund			
20 8153 0 7 304	Budget Authority	52,358	8,168
	Obligation Limitation	5,235	817
	Outlays	10,472	1,634
Construction grants			
68 0103 0 1 304	Budget Authority	2,035,800	317,585
	Outlays	71,253	11,115
Research and development (Energy supply)			
68 0107 0 1 271	Budget Authority	52,463	8,184
	Outlays	15,214	2,373

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Research and development (Pollution control and abatement)			
68 0107 0 1 304	Budget Authority	158,947	24,796
	Outlays	55,631	8,678
Abatement, control, and compliance			
68 0108 0 1 304	Budget Authority	751,289	117,201
	Outlays	334,754	52,222
Buildings and facilities			
68 0110 0 1 304	Budget Authority	8,352	1,303
	Outlays	1,420	222
Salaries and expenses			
68 0200 0 1 304	Budget Authority	873,110	136,205
	401(C) Authority - Off. Coll.	3,808	594
	Outlays	745,951	116,368
Payment to the hazardous substance superfund			
68 0250 0 1 304	Budget Authority	157,104	24,508
Reregistration and expedited processing revolving fund			
68 4310 0 3 304	401(C) Authority - Off. Coll.	14,500	2,262
	Outlays	14,500	2,262
Revolving fund for certification and other services			
68 4311 0 3 304	401(C) Authority - Off. Coll.	1,200	187
	Outlays	1,200	187
TOTAL FOR Environmental Protection Agency			
	Budget Authority	5,566,201	868,327
	401(C) Authority - Off. Coll.	32,708	5,102
	Obligation Limitation	204,165	31,850
	Outlays	1,677,093	261,626
Department of Transportation			
Federal Highway Administration			
Access highways to public recreation areas on certain lakes			
69 0503 0 1 401	Budget Authority	1,348	210
	Outlays	270	42
Motor carrier safety			
69 0552 0 1 401	Budget Authority	28,855	4,501
	Outlays	23,084	3,601
Railroad-highway crossings demonstration projects			
69 0557 0 1 401	Budget Authority	2,631	410
	Outlays	526	82
Trust fund share of other highway programs			
69 8009 0 7 401	Budget Authority	5,262	821
	Outlays	1,052	164
Baltimore-Washington Parkway			
69 8014 0 7 401	Budget Authority	13,389	2,089
	Outlays	2,678	418
Highway safety research and development			
69 8017 0 7 401	Budget Authority	6,348	990
	Outlays	1,270	198
Highway-related safety grants			
69 8019 0 7 401	401(C) Authority	10,000	1,560
	Obligation Limitation	9,819	1,532
	Outlays	1,963	306
Motor carrier safety grants			
69 8048 0 7 401	401(C) Authority	60,000	9,360
	Obligation Limitation	62,640	9,772
	Outlays	21,924	3,420
Federal-aid highways			
69 8083 0 7 401	401(C) Authority	14,103,000	2,200,068
	401(C) Authority - Off. Coll.	1,500	234
	Obligation Limitation	12,535,000	1,955,460
	Outlays	2,531,500	394,914
Right-of-way revolving fund (trust revolving fund)			
69 8402 0 8 401	Direct Loan Limitation	48,024	7,492
	Outlays	48,024	7,492
Miscellaneous appropriations			
69 9911 0 1 401	Budget Authority	57,029	8,897
	Outlays	11,406	1,779
Miscellaneous highway trust funds			
69 9972 0 7 401	Budget Authority	65,900	10,280
	Outlays	13,180	2,056
National Highway Traffic Safety Administration			
Operations and research			
69 0650 0 1 401	Budget Authority	71,756	11,194
	Outlays	46,641	7,276
Operations and research (trust fund share)			
69 8016 0 7 401	Budget Authority	32,488	5,068
	Outlays	21,117	3,294

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Highway traffic safety grants			
69 8020 0 7 401	401(C) Authority	126,000	19,656
	Obligation Limitation	131,544	20,521
	Outlays	52,618	8,209
Federal Railroad Administration			
Northeast corridor improvement program			
69 0123 0 1 401	Budget Authority	20,462	3,192
	Outlays	2,046	319
Office of the Administrator			
69 0700 0 1 401	Budget Authority	22,073	3,443
	Outlays	20,969	3,271
Railroad safety			
69 0702 0 1 401	Budget Authority	29,851	4,657
	Outlays	23,881	3,725
Grants to National Railroad Passenger Corporation			
69 0704 0 1 401	Budget Authority	609,696	95,113
	Outlays	548,726	85,601
Freightline rehabilitation			
69 0713 0 1 401	Budget Authority	6,264	977
	Outlays	3,758	586
Railroad research and development			
69 0745 0 1 401	Budget Authority	9,725	1,517
	Outlays	5,835	910
Conrail commuter transition assistance			
69 0747 0 1 401	Budget Authority	4,698	733
	Outlays	517	81
Urban Mass Transportation Administration			
Administrative expenses			
69 1120 0 1 401	Budget Authority	34,232	5,340
	Outlays	30,809	4,806
Research, training, and human resources			
69 1121 0 1 401	Budget Authority	10,440	1,629
	Outlays	2,088	326
Interstate transfer grants-transit			
69 1127 0 1 401	Budget Authority	208,800	32,573
	Outlays	4,176	651
Washington metro			
69 1128 0 1 401	Budget Authority	175,392	27,361
	Outlays	3,508	547
Formula grants			
69 1129 0 1 401	Budget Authority	1,675,620	261,397
	Outlays	632,716	98,704
Discretionary grants			
69 8191 0 7 401	401(C) Authority	1,300,000	202,800
	Obligation Limitation	1,190,160	185,665
	Outlays	28,658	4,471
Federal Aviation Administration			
Operations			
69 1301 0 1 402	Budget Authority	3,157,054	492,500
	401(C) Authority - Off. Coll.	14,650	2,285
	Outlays	2,732,066	426,202
Headquarters administration			
69 1302 0 1 402	Budget Authority	39,256	6,124
	Outlays	34,545	5,389
Aircraft purchase loan guarantee program			
69 1399 0 1 402	Budget Authority	150	23
	Outlays	150	23
Trust fund share of FAA operations			
69 8104 0 7 402	Budget Authority	506,593	79,029
	Outlays	506,593	79,029
Grants-in-aid for airports (Airport and airway trust fund)			
69 8106 0 7 402	Budget Authority	104	16
	401(C) Authority	1,700,000	265,200
	Obligation Limitation	1,461,600	228,010
	Outlays	233,960	36,498
Facilities and equipment (Airport and airway trust fund)			
69 8107 0 7 402	Budget Authority	1,446,948	225,724
	401(C) Authority - Off. Coll.	45,327	7,071
	Outlays	218,961	34,158
Research, engineering and development (Airport and airway trust fund)			
69 8108 0 7 402	Budget Authority	168,400	26,270
	401(C) Authority - Off. Coll.	500	78
	Outlays	101,540	15,840

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Coast Guard			
Operating expenses			
69 0201 0 1 403	Budget Authority	2,077,465	324,085
	401(C) Authority - Off. Coll.	5,181	808
	Outlays	1,708,703	266,558
Acquisition, construction, and improvements			
69 0240 0 1 403	Budget Authority	403,159	62,893
	Outlays	44,347	6,918
Retired pay			
69 0241 0 1 403	401(C) Authority	37,463	5,844
	Outlays	37,463	5,844
Reserve training			
69 0242 0 1 403	Budget Authority	71,937	11,222
	Outlays	62,585	9,763
Research, development, test, and evaluation			
69 0243 0 1 403	Budget Authority	19,808	3,090
	Outlays	6,735	1,051
Alteration of bridges			
69 0244 0 1 403	Budget Authority	14,094	2,198
	Outlays	3,242	505
Coast Guard shore facilities			
69 0246 0 1 403	Budget Authority	52,604	8,206
	Outlays	5,786	903
Offshore oil pollution compensation fund			
69 5167 0 2 304	Obligation Limitation	62,640	9,772
Pollution fund			
69 5168 0 2 304	401(C) Authority	5,700	889
	Outlays	1,710	267
Deepwater port liability fund			
69 5170 0 2 304	Obligation Limitation	52,200	8,143
Boat safety			
69 8149 0 7 403	Budget Authority	63,267	9,870
	Obligation Limitation	31,350	4,891
	Outlays	36,520	5,697
Maritime Administration			
Ready reserve force			
69 1710 0 1 403	Budget Authority	115,624	18,037
	Outlays	70,562	11,008
Operations and training			
69 1750 0 1 403	Budget Authority	70,233	10,956
	Outlays	59,698	9,313
Federal ship financing fund			
69 4301 0 3 403	401(C) Other - incl. ob. limit	3,820	596
	Outlays	3,438	536
Saint Lawrence Seaway Development Corporation			
Saint Lawrence Seaway Development Corporation			
69 4089 0 3 403	401(C) Authority - Off. Coll.	1,000	156
	Outlays	1,000	156
Operations and maintenance			
69 8003 0 7 403	Budget Authority	11,867	1,851
	Outlays	11,867	1,851
Office of the Inspector General			
Salaries and expenses			
69 0130 0 1 407	Budget Authority	31,204	4,868
	Outlays	27,147	4,235
Research and Special Programs Administration			
Research and special programs			
69 0104 0 1 407	Budget Authority	15,775	2,461
	Outlays	10,412	1,624
Pipeline safety			
69 5172 0 2 407	Budget Authority	9,803	1,529
	Outlays	9,313	1,453
Office of the Secretary			
Salaries and expenses			
69 0102 0 1 407	Budget Authority	58,447	9,118
	Outlays	52,602	8,206
Transportation, planning, research and development			
69 0142 0 1 407	Budget Authority	5,940	927
	Outlays	2,376	371
Payments to air carriers, DOT			
69 0150 0 1 402	Budget Authority	32,990	5,147
	Outlays	30,351	4,735
Working capital fund			
69 4520 0 4 407	Budget Authority	3,354	523
	Outlays	3,354	523

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
TOTAL FOR Department of Transportation			
	Budget Authority	11,468,335	1,789,059
	401(C) Authority	17,342,163	2,705,377
	401(C) Authority - Off. Coll.	68,158	10,632
	401(C) Other - incl. ob. limit	3,820	596
	Direct Loan Limitation	48,024	7,492
	Obligation Limitation	15,536,953	2,423,766
	Outlays	10,101,966	1,575,905
General Services Administration			
Real Property Activities			
Federal buildings fund			
47 4542 0 4 804	401(C) Authority - Off. Coll.	4,900	764
	Outlays	4,900	764
Personal Property Activities			
Federal supply service			
47 0116 0 1 804	Budget Authority	50,470	7,873
	Outlays	48,956	7,637
Expenses of transportation audit contracts			
47 5250 0 2 804	401(C) Authority	15,000	2,340
	Outlays	2,945	459
Information Resources Management Service			
Operating expenses, information resources management service			
47 0900 0 1 804	Budget Authority	34,046	5,311
	Outlays	22,130	3,452
Federal Property Resources Activities			
Operating expenses, federal property resources service			
47 0533 0 1 804	Budget Authority	11,546	1,801
	Outlays	7,447	1,162
Real property relocation			
47 0535 0 1 804	Budget Authority	4,176	651
	Outlays	2,088	326
Expenses, disposal of surplus real and related personal property			
47 5254 0 2 804	401(C) Authority	3,829	597
	Outlays	2,297	358
General Activities			
Allowances and office staff for former Presidents			
47 0105 0 1 802	Budget Authority	1,510	236
	Outlays	1,359	212
Expenses, presidential transition			
47 0107 0 1 802	Budget Authority	3,915	611
	Outlays	3,915	611
Office of Inspector General			
47 0108 0 1 804	Budget Authority	26,901	4,197
	Outlays	23,000	3,588
General management and administration, salaries and expenses			
47 0110 0 1 804	Budget Authority	129,416	20,189
	Outlays	90,591	14,132
Consumer information center fund			
47 4549 0 3 376	Budget Authority	1,423	222
	401(C) Authority - Off. Coll.	536	84
	Outlays	749	117
TOTAL FOR General Services Administration			
	Budget Authority	263,403	41,091
	401(C) Authority	18,829	2,937
	401(C) Authority - Off. Coll.	5,436	848
	Outlays	210,377	32,818
Department of Housing and Urban Development			
Housing Programs			
Housing counseling assistance			
86 0156 0 1 506	Budget Authority	3,654	570
Subsidized housing programs (Community development)			
86 0164 0 1 451	Budget Authority	5,220	814
Subsidized housing programs (Housing assistance)			
86 0164 0 1 604	Budget Authority	7,490,960	1,168,589
	Outlays	17,690	2,760
Congregate services program			
86 0178 0 1 604	Budget Authority	5,638	880
Transitional and supportive housing demonstration program			
86 0188 0 1 604	Budget Authority	83,520	13,029
	Outlays	1,670	261
Rental housing assistance fund			
86 4041 0 3 604	401(C) Authority - Off. Coll.	50,000	7,800
	Outlays	50,000	7,800
Nonprofit sponsor assistance			
86 4042 0 3 604	Direct Loan Limitation	1,000	156
	Outlays	236	37

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Federal Housing Administration fund			
86 4070 0 3 371	401(C) Other - incl. ob. limit	398,315	62,137
	Direct Loan Limitation	107,897	16,832
	Guaranteed Loan Limitation	100,224,000	15,634,944
	Outlays	336,576	52,506
Housing for the elderly or handicapped fund			
86 4115 0 3 371	Direct Loan Limitation	499,790	77,967
Interstate land sales			
86 5270 0 2 376	401(C) Authority	626	98
	Outlays	626	98
Manufactured home inspection and monitoring			
86 5271 0 2 376	401(C) Authority	7,642	1,192
	Outlays	6,259	976
Public and Indian Housing Programs			
Payments for operation of low income housing projects			
86 0163 0 1 604	Budget Authority	1,780,550	277,766
	Outlays	819,050	127,772
Government National Mortgage Association			
Guarantees of mortgage-backed securities			
86 4238 0 3 371	401(C) Authority - Off. Coll.	5,588	872
	Guaranteed Loan Limitation	149,942,000	23,390,952
	Outlays	4,868	759
Community Planning and Development			
Community development grants			
86 0162 0 1 451	Budget Authority	2,766,600	431,590
	Guaranteed Loan Limitation	150,336	23,452
	Outlays	110,664	17,264
Urban homesteading			
86 0171 0 1 451	Budget Authority	13,781	2,150
	Outlays	13,781	2,150
Emergency shelter grants program			
86 0181 0 1 604	Budget Authority	48,546	7,573
	Outlays	9,709	1,515
Rental rehabilitation grants			
86 0182 0 1 451	Budget Authority	156,600	24,430
	Outlays	15,660	2,443
Rehabilitation loan fund			
86 4036 0 3 451	401(C) Authority - Off. Coll.	13,567	2,116
	Direct Loan Limitation	70,000	10,920
	Outlays	34,567	5,392
Nehemiah housing opportunity program			
86 8888 0 1 451	Budget Authority	20,880	3,257
	Outlays	2,088	326
Policy Development and Research			
Research and technology			
86 0108 0 1 451	Budget Authority	17,957	2,801
	Outlays	5,387	840
Fair Housing and Equal Opportunity			
Fair housing activities			
86 0144 0 1 751	Budget Authority	10,440	1,629
	Outlays	3,132	489
Management and Administration			
Salaries and expenses, Including transfer of funds (Community developmen			
86 0143 0 1 451	Budget Authority	180,425	28,146
	Outlays	150,655	23,502
Salaries and expenses, Including transfer of funds (Housing assistance)			
86 0143 0 1 604	Budget Authority	121,370	18,934
	Outlays	105,228	16,416
Salaries and expenses, Including transfer of funds (Federal law enforcem			
86 0143 0 1 751	Budget Authority	15,567	2,428
	Outlays	11,862	1,850
TOTAL FOR Department of Housing and Urban Development			
	Budget Authority	12,721,708	1,984,586
	401(C) Authority	8,268	1,290
	401(C) Authority - Off. Coll.	69,155	10,788
	401(C) Other - incl. ob. limit	398,315	62,137
	Direct Loan Limitation	678,687	105,875
	Guaranteed Loan Limitation	250,316,336	39,049,348
	Outlays	1,699,708	265,156
National Aeronautics and Space Administration			
National Aeronautics and Space Administration			
Research and program management (Space flight)			
80 0103 0 1 253	Budget Authority	987,730	154,086
	401(C) Authority - Off. Coll.	5,000	780
	Outlays	850,497	132,677

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Research and program management (Space science, applications, and techno			
80 0103 0 1 254	Budget Authority	643,884	100,446
	Outlays	551,165	85,982
Research and program management (Supporting space activities)			
80 0103 0 1 255	Budget Authority	76,425	11,923
	Outlays	65,420	10,205
Research and program management (Air transportation)			
80 0103 0 1 402	Budget Authority	353,792	55,192
	Outlays	302,846	47,244
Space flight, control, and data communications			
80 0105 0 1 250	401(C) Authority - Off. Coll.	8,368	1,305
	Outlays	8,368	1,305
Space flight, control, and data communications (Space flight)			
80 0105 0 1 253	Budget Authority	3,668,512	572,288
	Outlays	2,586,301	403,463
Space flight, control, and data communications (Supporting space activit			
80 0105 0 1 255	Budget Authority	811,414	126,580
	401(C) Authority	47,935	7,478
	Outlays	494,213	77,097
Construction of facilities (Space flight)			
80 0107 0 1 253	Budget Authority	76,630	11,954
	Outlays	4,981	777
Construction of facilities (Space science, applications, and technology)			
80 0107 0 1 254	Budget Authority	11,902	1,857
	Outlays	774	121
Construction of facilities (Supporting space activities)			
80 0107 0 1 255	Budget Authority	143,863	22,443
	Outlays	9,351	1,459
Construction of facilities (Air transportation)			
80 0107 0 1 402	Budget Authority	54,810	8,550
	Outlays	3,563	556
Research and development (Space flight)			
80 0108 0 1 253	Budget Authority	1,643,256	256,348
	401(C) Authority - Off. Coll.	5,781	902
	Outlays	796,187	124,206
Research and development (Space science, applications, and technology)			
80 0108 0 1 254	Budget Authority	2,281,036	355,841
	Outlays	1,163,328	181,479
Research and development (Supporting space activities)			
80 0108 0 1 255	Budget Authority	19,627	3,062
	Outlays	12,620	1,969
Research and development (Air transportation)			
80 0108 0 1 402	Budget Authority	454,036	70,830
	Outlays	232,012	36,194
Science, space, and technology education trust fund			
80 8978 0 7 503	401(C) Authority	1,000	156
	Outlays	1,000	156
TOTAL FOR National Aeronautics and Space Administration			
	Budget Authority	11,226,917	1,751,400
	401(C) Authority	48,935	7,634
	401(C) Authority - Off. Coll.	19,149	2,987
	Outlays	7,082,626	1,104,890
Office of Personnel Management			
Office of Personnel Management			
Salaries and expenses			
24 0100 0 1 805	Budget Authority	115,832	18,070
	Outlays	110,040	17,166
Government payment for annuitants, employees health benefits			
24 0206 0 1 551	401(C) Authority	3,780,169	589,706
Government payment for annuitants, employee life insurance benefits			
24 0500 0 1 602	Budget Authority	2,700	421
	Outlays	2,100	328
Revolving fund			
24 4571 0 4 805	401(C) Authority - Off. Coll.	1,167	182
	Outlays	1,167	182
Civil service retirement and disability fund			
24 8135 0 7 602	Obligation Limitation	69,450	10,834
	Outlays	69,450	10,834
Employees life insurance fund			
24 8424 0 8 602	401(C) Other - incl. ob. limit	772	120
	Outlays	772	120
Employees health benefits fund			
24 8440 0 8 551	Obligation Limitation	10,650	1,661
	Outlays	10,650	1,661

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Retired employees health benefits fund			
24 8445 0 8 551	Obligation Limitation	130	20
	Outlays	130	20
TOTAL FOR Office of Personnel Management			
	Budget Authority	118,532	18,491
	401(C) Authority	3,780,169	589,706
	401(C) Authority - Off. Coll.	1,167	182
	401(C) Other - incl. ob. limit	772	120
	Obligation Limitation	80,230	12,515
	Outlays	194,309	30,311
Small Business Administration			
Small Business Administration			
Salaries and expenses			
73 0100 0 1 376	Budget Authority	243,659	38,011
	Outlays	246,120	38,395
Disaster loan fund			
73 4153 0 3 453	Direct Loan Limitation	323,000	50,388
	Outlays	138,000	21,528
Business loan and investment fund			
73 4154 0 3 376	Direct Loan Limitation	94,000	14,664
	Guaranteed Loan Limitation	3,910,000	609,960
	Outlays	53,000	8,268
Surety bond guarantees revolving fund			
73 4156 0 3 376	Guaranteed Loan Limitation	1,301,000	202,956
TOTAL FOR Small Business Administration			
	Budget Authority	243,659	38,011
	Direct Loan Limitation	417,000	65,052
	Guaranteed Loan Limitation	5,211,000	812,916
	Outlays	437,120	68,191
Department of Veterans Affairs			
Veterans Benefits Administration			
Readjustment benefits			
36 0137 0 1 702	401(C) Authority	212,119	33,091
	Outlays	196,352	30,631
Burial benefits and miscellaneous assistance			
36 0155 0 1 701	401(C) Authority	138,120	21,547
	Outlays	138,118	21,546
Veterans Health Services and Research Administration			
Grants to the Republic of the Philippines			
36 0144 0 1 703	Budget Authority	522	81
	Outlays	26	4
Medical administration and miscellaneous operating expenses			
36 0152 0 1 703	Budget Authority	51,345	8,010
	Outlays	37,995	5,927
Medical care			
36 0160 0 1 703	Budget Authority	955,770	149,100
	Budget Authority - Spec. Rules	213,999	213,999
	401(C) Authority - Spec. Rules	408	408
	Outlays	1,062,548	320,412
Medical and prosthetic research			
36 0161 0 1 703	Budget Authority	225,584	35,191
	Outlays	175,956	27,449
Departmental Administration			
Construction, major projects			
36 0110 0 1 703	Budget Authority	373,854	58,322
	Outlays	12,337	1,924
Construction, minor projects			
36 0111 0 1 703	Budget Authority	102,441	15,980
	Outlays	53,275	8,311
General operating expenses			
36 0151 0 1 705	Budget Authority	836,232	130,452
	Outlays	752,609	117,407
Office of the Inspector General			
36 0170 0 1 705	Budget Authority	21,982	3,429
	Outlays	19,784	3,086
Grants for construction of state extended care facilities			
36 0181 0 1 703	Budget Authority	43,848	6,840
Grants for the construction of State veterans cemeteries			
36 0183 0 1 705	Budget Authority	9,396	1,466
Parking garage revolving fund			
36 4538 0 3 703	Budget Authority	27,144	4,234
	401(C) Authority - Off. Coll.	647	101
	Outlays	2,004	313

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
TOTAL FOR Department of Veterans Affairs			
	Budget Authority	2,648,118	413,105
	Budget Authority - Spec. Rules	213,999	213,999
	401(C) Authority	350,239	54,638
	401(C) Authority - Off. Coll.	647	101
	401(C) Authority - Spec. Rules	408	408
	Outlays	2,451,004	537,010
Other Independent Agencies			
Other Independent Agencies			
Space Council			
11 0020 0 1 802	Budget Authority	194	30
	Outlays	175	27
White House Conference on Library and Information Sciences			
95 2701 0 1 503	Budget Authority	1,880	293
	Outlays	1,671	261
ACTION			
Operating expenses			
44 0103 0 1 506	Budget Authority	179,550	28,010
	Outlays	109,166	17,030
Administrative Conference of the United States			
Salaries and expenses			
95 1700 0 1 751	Budget Authority	2,001	312
	Outlays	1,601	250
Advisory Committee on Federal Pay			
Salaries and expenses			
95 1800 0 1 805	Budget Authority	220	34
	Outlays	209	33
Advisory Council on Historic Preservation			
Salaries and expenses			
95 2300 0 1 303	Budget Authority	1,911	298
	Outlays	1,720	268
American Battle Monuments Commission			
Salaries and expenses			
74 0100 0 1 705	Budget Authority	16,230	2,532
	Outlays	13,796	2,152
Architectural and Transportation Barriers Compliance Board			
Salaries and expenses			
95 3200 0 1 751	Budget Authority	2,025	316
	Outlays	1,559	243
Arms Control and Disarmament Agency			
Arms control and disarmament activities			
94 0100 0 1 153	Budget Authority	33,013	5,150
	Outlays	21,888	3,415
Barry Goldwater Scholarship and Excellence in Education Foundation			
Barry Goldwater Scholarship and Excellence in Education Foundation			
95 8281 0 7 502	401(C) Other - incl. ob. limit	1,307	204
	Outlays	1,307	204
Board for International Broadcasting			
Grants and expenses			
95 1145 0 1 154	Budget Authority	203,508	31,747
	Outlays	195,368	30,477
Israel relay station			
95 1146 0 1 154	Budget Authority	34,464	5,376
	Outlays	10,339	1,613
Commission of Fine Arts			
Salaries and expenses			
95 2600 0 1 451	Budget Authority	510	80
	Outlays	467	73
National capital arts and cultural affairs			
95 2602 0 1 503	Budget Authority	5,220	814
	Outlays	5,220	814
Commission on Civil Rights			
Salaries and expenses			
95 1900 0 1 751	Budget Authority	6,123	955
	Outlays	5,205	812
Committee for Purchase from the Blind and other Severely Handicapped			
Salaries and expenses			
95 2000 0 1 505	Budget Authority	924	144
	Outlays	877	137
Commodity Futures Trading Commission			
Commodity Futures Trading Commission			
95 1400 0 1 376	Budget Authority	37,305	5,820
	Outlays	32,455	5,063

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Consumer Product Safety Commission			
Salaries and expenses			
61 0100 0 1 554	Budget Authority	37,021	5,775
	401(C) Authority - Off. Coll.	10	2
	Outlays	31,478	4,911
Corporation for Public Broadcasting			
Public broadcasting fund			
20 0151 0 1 503	401(C) Authority	232,648	36,293
	Outlays	232,648	36,293
Court of Veterans Appeals			
Salaries and expenses			
95 0300 0 1 705	Budget Authority	3,329	519
	Outlays	2,996	467
District of Columbia			
Federal payment to the District of Columbia			
20 1700 0 1 806	Budget Authority	561,578	87,606
	Outlays	561,578	87,606
Equal Employment Opportunity Commission			
Salaries and expenses			
45 0100 0 1 751	Budget Authority	193,802	30,233
	Outlays	171,127	26,696
Export-Import Bank of the United States			
Export-Import Bank of the United States			
83 4027 0 3 155	Budget Authority	114,840	17,915
	Direct Loan Limitation	725,580	113,190
	Guaranteed Loan Limitation	10,648,800	1,661,213
	Obligation Limitation	21,900	3,416
	Outlays	128,400	20,030
Farm Credit Administration			
Revolving fund for administrative expenses			
78 4131 0 3 351	Obligation Limitation	39,776	6,205
	Outlays	39,776	6,205
Farm Credit System Financial Assistance Corporation			
Farm credit assistance fund			
78 4133 0 3 351	401(C) Authority	500,000	78,000
	Outlays	475,000	74,100
Federal Communications Commission			
Salaries and expenses			
27 0100 0 1 376	Budget Authority	107,309	16,740
	Outlays	100,870	15,736
Federal Election Commission			
Salaries and expenses			
95 1600 0 1 808	Budget Authority	16,821	2,624
	Outlays	15,139	2,362
Federal Emergency Management Agency			
Salaries and expenses (Defense-related activities)			
58 0100 0 1 054	Budget Authority	74,003	11,544
	Outlays	66,603	10,390
Salaries and expenses (Disaster relief and insurance)			
58 0100 0 1 453	Budget Authority	73,837	11,519
	Outlays	66,453	10,367
Emergency management planning and assistance (Defense-related activities			
58 0101 0 1 054	Budget Authority	267,529	41,735
	Outlays	147,141	22,954
Emergency management planning and assistance (Disaster relief and insura			
58 0101 0 1 453	Budget Authority	27,336	4,264
	Outlays	15,035	2,345
Emergency food and shelter program			
58 0103 0 1 605	Budget Authority	131,544	20,520
	Outlays	131,544	20,520
Disaster relief			
58 0104 0 1 453	Budget Authority	104,400	16,286
	Outlays	41,760	6,515
National insurance development fund			
58 4235 0 3 451	401(C) Authority	220	34
	Outlays	220	34
Federal Labor Relations Authority			
Salaries and expenses			
54 0100 0 1 805	Budget Authority	18,874	2,944
	Outlays	17,364	2,709
Federal Maritime Commission			
Salaries and expenses			
65 0100 0 1 403	Budget Authority	14,608	2,279
	Outlays	13,147	2,051

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Federal Mediation and Conciliation Service			
Salaries and expenses			
93 0100 0 1 505	Budget Authority	27,738	4,327
	Outlays	25,214	3,933
Federal Mine Safety and Health Review Commission			
Salaries and expenses			
95 2800 0 1 554	Budget Authority	4,332	676
	Outlays	4,029	629
Federal Trade Commission			
Salaries and expenses			
29 0100 0 1 376	Budget Authority	71,189	11,105
	Outlays	65,494	10,217
TOTAL FOR Other Independent Agencies			
	Budget Authority	2,375,168	370,522
	401(C) Authority	732,868	114,327
	401(C) Authority - Off. Coll.	10	2
	401(C) Other - incl. ob. limit	1,307	204
	Direct Loan Limitation	725,580	113,190
	Guaranteed Loan Limitation	10,648,800	1,661,213
	Obligation Limitation	61,676	9,621
	Outlays	2,756,039	429,942
Other Independent Agencies			
Harry S Truman Scholarship Foundation			
Harry S Truman memorial scholarship trust fund			
95 8296 0 7 502	401(C) Other - incl. ob. limit	3,061	478
	Outlays	3,053	476
American Revolution Bicentennial Administration			
American Revolution Bicentennial Administration			
76 1900 0 1 806	Budget Authority	5,075	792
	Outlays	4,568	713
Christopher Columbus Quincentennary Jubilee Commission			
Salaries and expenses			
76 0800 0 1 376	Budget Authority	226	35
	Outlays	204	32
Commission on the Bicentennial of the U.S. Constitution			
Salaries and expenses			
76 0054 0 1 808	Budget Authority	7,308	1,140
	Outlays	6,321	986
Franklin Delano Roosevelt Memorial Commission			
Salaries and expenses			
76 0700 0 1 808	Budget Authority	29	5
	Outlays	24	4
Institute of American Indian and Alaska Native Culture and Arts Developm			
Salaries and expenses			
95 2900 0 1 502	Budget Authority	3,230	504
	Outlays	3,230	504
Intelligence Community Staff			
Intelligence community staff			
95 0400 0 1 054	Budget Authority	25,291	2,706
	Outlays	16,439	1,759
Advisory Commission on Intergovernmental Relations			
Salaries and expenses			
55 0100 0 1 808	Budget Authority	1,119	175
	Outlays	952	149
Appalachian Regional Commission			
Appalachian regional development programs			
46 0200 0 1 452	Budget Authority	115,631	18,039
	Outlays	8,332	1,300
Delaware River Basin Commission			
Salaries and expenses			
46 0100 0 1 301	Budget Authority	220	34
	Outlays	205	32
Contribution to Delaware River Basin Commission			
46 0102 0 1 301	Budget Authority	275	43
	Outlays	275	43
Interstate Commission on the Potomac River Basin			
Contribution to Interstate Commission on the Potomac River Basin			
46 0446 0 1 304	Budget Authority	396	62
	Outlays	396	62
Susquehanna River Basin Commission			
Salaries and expenses			
46 0500 0 1 301	Budget Authority	207	32
	Outlays	195	30
Contribution to Susquehanna River Basin Commission			
46 0501 0 1 301	Budget Authority	274	43
	Outlays	274	43

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International Trade Commission			
Salaries and expenses			
34 0100 0 1 153	Budget Authority	38,529	6,011
	Outlays	33,173	5,175
Interstate Commerce Commission			
Salaries and expenses			
30 0100 0 1 401	Budget Authority	46,408	7,240
	Outlays	41,767	6,516
James Madison Memorial Fellowship Foundation			
James Madison Memorial Fellowship Trust Fund			
95 8282 0 7 502	401(C) Other - incl. ob. limit	500	78
	Outlays	250	39
Japan-United States Friendship Commission			
Japan-United States friendship trust fund			
95 8025 0 7 154	Budget Authority	1,483	231
	Outlays	1,483	231
Legal Services Corporation			
Payment to the Legal Services Corporation			
20 0501 0 1 752	Budget Authority	322,131	50,252
	Outlays	283,475	44,222
Marine Mammal Commission			
Salaries and expenses			
95 2200 0 1 302	Budget Authority	1,023	160
	Outlays	908	142
Merit Systems Protection Board			
Salaries and expenses			
41 0100 0 1 805	Budget Authority	22,019	3,435
	Outlays	18,716	2,920
Office of the Special Counsel			
41 0101 0 1 805	Budget Authority	5,388	841
	Outlays	4,952	773
National Archives and Records Administration			
Operating expenses			
88 0300 0 1 804	Budget Authority	129,501	20,202
	Outlays	103,601	16,162
National archives trust fund			
88 8436 0 8 804	401(C) Authority - Off. Coll.	10,555	1,647
	Outlays	10,555	1,647
National Capital Planning Commission			
Salaries and expenses			
95 2500 0 1 451	Budget Authority	3,186	497
	Outlays	2,931	457
National Commission on Libraries and Information Science			
Salaries and expenses			
95 2700 0 1 503	Budget Authority	796	124
	Outlays	637	99
National Commission on Migrant Education			
Salaries and expenses			
95 0600 0 1 501	Budget Authority	2,085	325
	Outlays	167	26
National Council on Disability			
Salaries and expenses			
95 3500 0 1 506	Budget Authority	1,234	193
	Outlays	987	154
National Endowment for the Arts			
National endowment for the arts: Grants and administration			
59 0100 0 1 503	Budget Authority	176,999	27,612
	Outlays	59,649	9,305
National Endowment for the Humanities			
National endowment for the humanities: Grants and administration			
59 0200 0 1 503	Budget Authority	160,175	24,987
	Outlays	72,079	11,244
Institute of Museum Services			
Institute of Museum Services: Grants and administration			
59 0300 0 1 503	Budget Authority	23,278	3,631
	Outlays	6,006	937
National Labor Relations Board			
Salaries and expenses			
63 0100 0 1 505	Budget Authority	147,561	23,020
	Outlays	138,855	21,661
National Mediation Board			
Salaries and expenses			
95 2400 0 1 505	Budget Authority	6,969	1,087
	Outlays	5,324	831

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Science Foundation			
Research and related activities			
49 0100 0 1 251	Budget Authority	1,692,745	264,068
	Outlays	824,312	128,593
Science and engineering education activities			
49 0106 0 1 251	Budget Authority	178,524	27,850
	Outlays	26,600	4,150
U.S. Antarctic program			
49 0200 0 1 251	Budget Authority	136,764	21,335
	Outlays	67,698	10,561
National Transportation Safety Board			
Salaries and expenses			
95 0310 0 1 407	Budget Authority	27,221	4,246
	Outlays	24,499	3,822
Neighborhood Reinvestment Corporation			
Payment to the Neighborhood Reinvestment Corporation			
82 1300 0 1 451	Budget Authority	20,352	3,175
	Outlays	20,352	3,175
Nuclear Regulatory Commission			
Salaries and expenses			
31 0200 0 1 276	Budget Authority	446,277	69,619
	Outlays	334,708	52,214
TOTAL FOR Other Independent Agencies			
	Budget Authority	3,749,929	583,751
	401(C) Authority - Off. Coll.	10,555	1,647
	401(C) Other - incl. ob. limit	3,561	556
	Outlays	2,128,152	331,189
Other Independent Agencies			
Occupational Safety and Health Review Commission			
Salaries and expenses			
95 2100 0 1 554	Budget Authority	6,284	980
	Outlays	5,781	902
Pennsylvania Avenue Development Corporation			
Salaries and expenses			
42 0100 0 1 451	Budget Authority	2,498	390
	Outlays	2,023	316
Public development			
42 0102 0 1 451	Budget Authority	3,319	518
	Outlays	2,489	388
Land acquisition and development fund			
42 4084 0 3 451	401(C) Authority - Off. Coll.	10,000	1,560
	Outlays	10,000	1,560
Postal Service			
Payment to the Postal Service fund			
18 1001 0 1 372	Budget Authority	455,619	71,077
	Outlays	455,619	71,077
Postal Service			
18 4020 0 3 372	401(C) Other - incl. ob. limit	1,097,124	171,151
Railroad Retirement Board			
Railroad social security equivalent benefit account			
60 8010 0 7 601	Obligation Limitation	28,123	4,387
	Outlays	28,123	4,387
Rail Industry Pension Fund			
60 8011 0 7 601	Obligation Limitation	33,625	5,246
	Outlays	33,625	5,246
Supplemental Annuity Pension Fund			
60 8012 0 7 601	Obligation Limitation	2,300	359
	Outlays	2,300	359
Securities and Exchange Commission			
Salaries and expenses			
50 0100 0 1 376	Budget Authority	152,966	23,863
	Outlays	139,199	21,715
Selective Service System			
Salaries and expenses			
90 0400 0 1 054	Budget Authority	28,202	3,018
	Outlays	23,154	2,477
Smithsonian Institution			
Salaries and expenses			
33 0100 0 1 503	Budget Authority	226,568	35,345
	Outlays	200,060	31,209
Construction and improvements, National Zoological Park			
33 0129 0 1 503	Budget Authority	5,538	864
	Outlays	2,492	389
Repair and restoration of buildings			
33 0132 0 1 503	Budget Authority	21,647	3,377
	Outlays	8,659	1,351

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Construction			
33 0133 0 1 503	Budget Authority	9,036	1,410
	Outlays	3,614	564
Salaries and expenses, National Gallery of Art			
33 0200 0 1 503	Budget Authority	40,692	6,348
	Outlays	34,873	5,440
Repair, restoration, and renovation of buildings			
33 0201 0 1 503	Budget Authority	784	122
	Outlays	188	29
Salaries and expenses, Woodrow Wilson International Center for Scholars			
33 0400 0 1 503	Budget Authority	4,502	702
	Outlays	2,764	431
Payment to the endowment challenge fund			
33 0401 0 1 503	Budget Authority	313	49
	Outlays	157	24
Endowment challenge fund			
33 8188 0 7 503	401(C) Authority	270	42
	Outlays	270	42
Canal Zone biological area fund			
33 8190 0 7 503	401(C) Authority	150	23
	Outlays	135	21
TOTAL FOR Other Independent Agencies			
	Budget Authority	957,968	148,063
	401(C) Authority	420	65
	401(C) Authority - Off. Coll.	10,000	1,560
	401(C) Other - incl. ob. limit	1,097,124	171,151
	Obligation Limitation	64,048	9,992
	Outlays	955,525	147,927
Other Independent Agencies			
Other Temporary Commissions			
State Justice Institute: Salaries and expenses			
48 0052 0 1 752	Budget Authority	11,491	1,793
	Outlays	3,103	484
Commission on Agricultural Workers: Salaries and expenses			
48 0057 0 1 352	Budget Authority	534	83
	Outlays	481	75
National Commission on Responsibilities for Financing Postsecondary Educ			
48 0400 0 1 502	Budget Authority	827	129
	Outlays	618	96
Nuclear Waste Technical Review Board: Salaries and expenses			
48 0500 0 1 271	Budget Authority	3,136	489
	Outlays	1,568	245
Office of the Nuclear Waste Negotiator: Salaries and expenses			
48 0700 0 1 271	Budget Authority	3,136	489
	Outlays	1,568	245
Navajo and Hopi Indian Relocation Commission: Salaries and expenses			
48 1100 0 1 808	Budget Authority	28,668	4,472
	Outlays	18,061	2,818
Interagency Council on the Homeless			
48 1300 0 1 604	Budget Authority	1,145	179
	Outlays	678	106
Commission for the Study of International Migration and Cooperative Econ			
48 1400 0 1 153	Budget Authority	1,368	213
	Outlays	821	128
National Commission to Prevent Infant Mortality			
48 1500 0 1 808	Budget Authority	689	107
	Outlays	551	86
International Cultural and Trade Center Commission: Salaries and expense			
48 1800 0 1 804	Budget Authority	847	132
	Outlays	424	66
National Economic Commission: Salaries and expenses			
48 2100 0 1 802	Budget Authority	736	115
	Outlays	675	105
Tennessee Valley Authority			
Tennessee Valley Authority fund (Energy supply)			
64 4110 0 3 271	401(C) Authority - Off. Coll.	73,500	11,466
	Outlays	64,680	10,090
Tennessee Valley Authority fund (Area and regional development)			
64 4110 0 3 452	Budget Authority	108,436	16,916
	Outlays	26,675	4,161
United States Holocaust Memorial Council			
Holocaust Memorial Council			
95 3300 0 1 808	Budget Authority	2,380	371
	Outlays	1,883	294

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United States Information Agency			
Salaries and expenses			
67 0201 0 1 154	Budget Authority	661,368	103,174
	Outlays	521,819	81,404
East West Center			
67 0202 0 1 154	Budget Authority	20,880	3,257
	Outlays	19,732	3,078
Radio construction			
67 0204 0 1 154	Budget Authority	67,863	10,587
	Outlays	38,139	5,950
Radio broadcasting to Cuba			
67 0208 0 1 154	Budget Authority	11,914	1,859
	Outlays	9,531	1,487
Educational and cultural exchange programs			
67 0209 0 1 154	Budget Authority	156,642	24,436
	Outlays	71,272	11,118
National Endowment for Democracy			
67 0210 0 1 154	Budget Authority	16,495	2,573
	Outlays	6,598	1,029
United States Institute of Peace			
United States Institute of Peace			
95 1300 0 1 153	Budget Authority	7,297	1,138
	Outlays	5,838	911
United States Sentencing Commission			
Salaries and expenses			
10 0938 0 1 752	Budget Authority	5,535	863
	Outlays	4,982	777
TOTAL FOR Other Independent Agencies			
	Budget Authority	1,111,387	173,375
	401(C) Authority - Off. Coll.	73,500	11,466
	Outlays	799,697	124,753
REPORT TOTAL			
	Budget Authority	468,673,749	57,917,774
	Budget Authority - Spec. Rules	245,378	245,378
	401(C) Authority	43,604,739	6,802,343
	401(C) Authority - Off. Coll.	2,089,342	325,935
	401(C) Other - incl. ob. limit	3,293,620	513,804
	401(C) Authority - Spec. Rules	1,893,509	1,893,509
	Direct Loan Limitation	21,223,541	3,310,871
	Direct Loan Floor	2,052,778	320,233
	Guaranteed Loan Limitation	276,780,881	43,177,817
	Guaranteed Loan Floor	0	0
	Obligation Limitation	25,423,941	3,966,139
	Unobligated Balances - Defense	39,585,864	4,235,690
	Outlays	315,578,064	41,475,837

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 840/Pub. L. 101-92

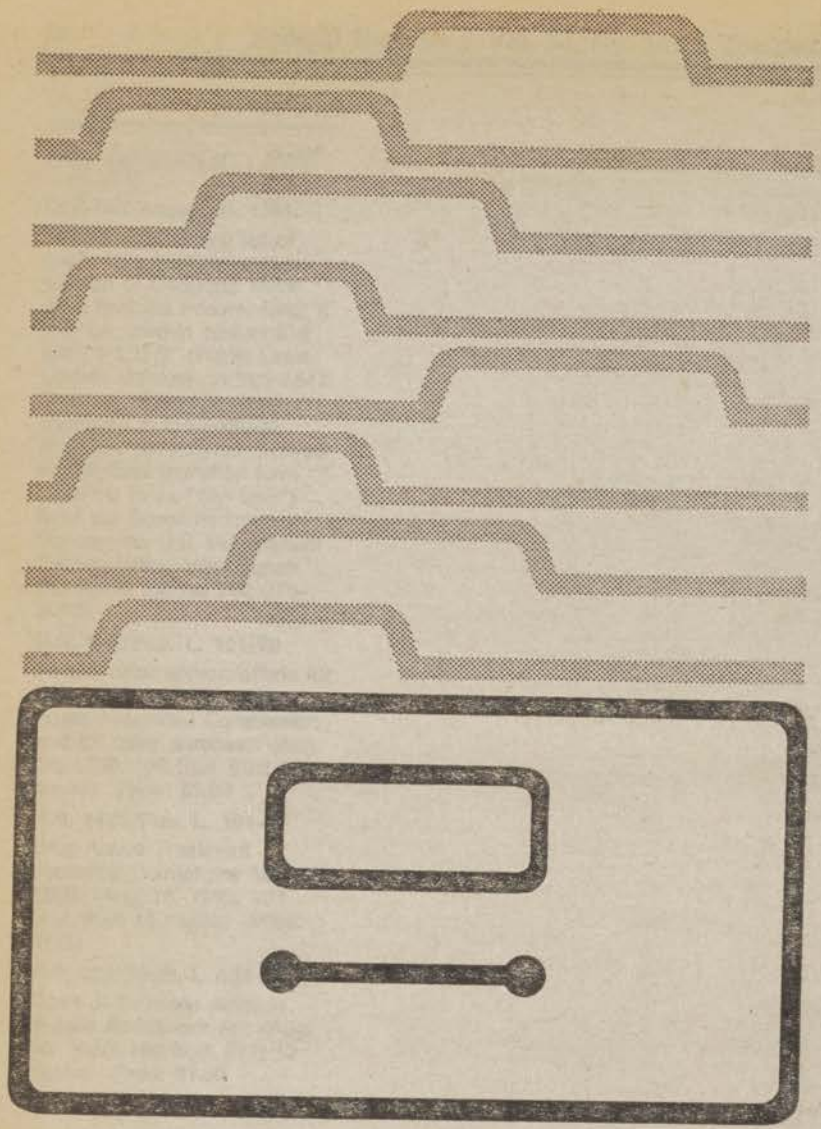
To authorize appropriations for fiscal year 1990 for the Federal Maritime Commission, and for other purposes. (Aug. 16, 1989; 103 Stat. 601; 2 pages) Price: $1.00

H.R. 1426/Pub. L. 101-93

Drug Abuse Treatment Technical Corrections Act of 1989. (Aug. 16, 1989; 103 Stat. 603; 14 pages) Price: $1.00

H.R. 2727/Pub. L. 101-94

Court of Veterans Appeals Judges Retirement Act. (Aug. 16, 1989; 103 Stat. 617; 13 pages) Price: $1.00



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in the Code of Federal Regulations (CFR)

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