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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

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:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
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.

WASHINGTON, DC

WHEN: January 30, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202-523-5240.

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 89-196]

Validated Brucellosis-Free States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine by adding West Virginia to the list of validated brucellosis-free States. We have determined that West Virginia meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on moving breeding swine from West Virginia.

EFFECTIVE DATES: Interim rule effective January 5, 1990. Consideration will be given only to comments received on or before March 6, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-196. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William C. Stewart, Chief Staff Officer, Swine Diseases Staff, VS, APHIS, USDA, Room 736, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7767.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) prescribe conditions for the interstate movement of cattle, bison and swine. States, areas, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for animals are based upon the disease status of the herd, area, or state from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated brucellosis-free States, to include West Virginia. Validated brucellosis-free status is based on a State having:

(1) The necessary authorities for classification as a validated brucellosis-free State for swine;

(2) No known focus of swine brucellosis at the time of validation and completion of one of several methods of surveillance; or no diagnosed case of swine brucellosis in the 12 month period preceding the classification, and a statistical analysis of the combined results of certain tests that indicate the testing is equivalent to either complete herd testing or slaughter surveillance during a period chosen by the State; and

(3) Certification by the appropriate State animal health official, the Veterinarian in Charge and the Deputy Administrator.

After reviewing its brucellosis program records, we have concluded that West Virginia meets the criteria for classification as a validated brucellosis-free State. We are therefore adding West Virginia to the list of States in § 78.43. This action relieves certain restrictions on moving breeding swine from West Virginia.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of breeding swine from West Virginia.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Herd owners in West Virginia will be affected by this action. It will allow breeding swine to be moved interstate from West Virginia without being tested for brucellosis. Approximately nine swine are tested for brucellosis in West Virginia each year, at an average cost to the seller of $11.88 per test, resulting in a potential savings of $106.92 for West Virginia swine herd owners. Of the approximately 3,000 swine herd owners nationwide who regularly ship breeding swine interstate, fewer than five regularly ship breeding swine interstate from West Virginia. Of these herd owners, four would be considered small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.43 [Amended]

2. Section 78.43 is amended by adding "West Virginia," immediately after "Washington,".

Done in Washington, DC, this 29th day of December 1989.

Larry B Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–279 Filed 1–4–90; 8:45 am]

BILLING CODE 3410-34

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 201

[Docket No. R-89-1419; FR-2501-C-03]

RIN 2501-AA72

Disclosure and Verification of Social Security Numbers and Employer Identification Numbers by Applicants and Participants in HUD Programs, Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; correction.

SUMMARY: On September 27, 1989 (54 FR 39680), the Department published a final rule that required applicants and participants (and members of their households) in any HUD program involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, to disclose to HUD their Social Security Numbers (SSNs) or Employer Identification Numbers (EINs), in order to participate in certain HUD programs. The purpose of this document is to correct § 201.06 by redesignating it to read § 201.6.

EFFECTIVE DATE: January 5, 1990.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Telephone: (202) 755–7055. (This is not a toll-free number).

Accordingly, in FR Doc. 89–22752, published in the **Federal Register** on September 27, 1989 at 54 FR 39680, 24 CFR part 201 is amended by correcting § 201.06 to read as follows:

PART 201—TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

1. The authority citation for part 201 continues to read as follows:

Authority: Sec. 2, National Housing Act (12 U.S.C. 1703); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. On page 39692, in the third column, at the bottom of the page, "§ 201.06", is corrected by redesignating it to read, "§ 201.6".

Dated: December 28, 1989.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 90–284 Filed 1–4–90; 8:45 am]

BILLING CODE 4210-32-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 350

[OPTS-400039; FRL-3661-9]

Notice of Change of Address for Submission of Information under the Emergency Planning and Community Right-to-Know Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment; final rule.

SUMMARY: This notice announces the new mailing address to be used by facilities when submitting toxic chemical release forms and trade secrecy claims to EPA under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (also known as Title III). The new address is also to be used by facilities when submitting trade secrecy claims under sections 303 (d)(2) and (d)(3), 311, and 312 of Title III. It should also be used by the public when petitioning the Agency to add or remove chemicals from the section 313 priority list.

DATE: This change is effective January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Doug Sellers, Project Officer, Title III Reporting Center, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–382–3587.

SUPPLEMENTARY INFORMATION: Beginning January 1, 1990, the mailing address for submitting the above-mentioned Emergency Planning and Community Right-to-Know information to EPA will change from U.S. Environmental Protection Agency, Emergency Planning and Community Right-to-Know, P.O. Box 70266, Washington, DC 20024–0266 to: Title III Reporting Center, Environmental Protection Agency, P.O. Box 223779, Washington, DC 20026–3779, Attn:. The attention line should indicate whether the enclosed information is subject to section 303, 311, 312, or 313. This change in mailing address is being made to facilitate the receipt and processing of forms and other information by the Agency.

Dated: December 21, 1989.

Charles L. Elkins,

Director, Office of Toxic Substances.

Therefore, 40 CFR part 350 is amended to read as follows:

PART 350—[AMENDED]

1. The authority citation for part 350 continues to read as follows:

Authority: U.S.C. 11042 and 11043.

2. Section 350.16 is revised to read as follows:

§ 350.16 Address to send trade secrecy claims and petitions requesting disclosure.

All claims of trade secrecy under sections 303 (d)(2) and (d)(3), 311, 312, and 313 and all public petitions requesting disclosure of chemical identities claimed as trade secret should be sent to the following address: Title III Reporting Center, Environmental Protection Agency, P.O. Box 223779, Washington, DC 20026–3779.

[FR Doc. 90–271 Filed 1–4–90; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-571; RM-6460]

Radio Broadcasting Services; Plainview, TX

AGENCY: Federal Communications Commissions.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 280C1 for Channel 280A at Plainview, Texas, and modifies the license of Station KKYN-FM to specify operation on the higher class co-channel as requested by Michael and Mary Beth Fox, d/b/a Plains Broadcasting formerly Adams-Shelton Communications. *See* 53 FR 52740, December 29, 1988. This action provides the community with expanded FM coverage service. Channel 280C1 can be used at the current transmitter site of Station KKYN-FM which is located at coordinates 34-13-05 and 101-42-02. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 12, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-571, adopted December 7, 1989, and released December 27, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Texas, by removing Channel 280A and adding Channel 280C1 at Plainview.

Karl A. Kensinger,

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

[FR Doc. 90-163 Filed 1-4-90; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 525

[Acquisition Circ. AC-89-5]

Threshold for Application of Trade Agreements Act

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), chapter 5, (APD 2800.12A), is temporarily amended to revise section 525.402 to provide the new dollar threshold required for the applicability of the Trade Agreement Act of 1979 as authorized by the U.S. Trade Representative under Executive Order 12260. The intended effect is to provide guidance to GSA contracting activities pending a revision to the General Services Administration Acquisition Regulation.

DATES: *Effective date:* January 1, 1990. *Expiration date:* December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Edward McAndrew, Office of GSA Acquisition Policy (VP), (202) 566-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the **Federal Register** for public comment because it merely reflects the U.S. Trade Representative's determination to change the threshold for applicability of the Trade Agreements Act of 1979 in accordance with Executive Order 12260.

B. Background

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The Regulatory Flexibility Act does not apply to this rule because the proposed policy was not required to be published in the Federal Register. This Circular does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

General Services Administration Acquisition Regulation Acquisition Circular No. AC-89-5

To: All GSA contracting activities.
Subject: Threshold for application of Trade Agreement Act.

1. *Purpose.* This Acquisition Circular is issued to implement a change in the dollar threshold for applicability of the Trade Agreement Act, pending a formal revision to the General Services Administration Acquisition Regulation (GSAR).

2. *Background.* The United States Trade Representative (TR) is authorized under Executive Order 12260 to determine the appropriate dollar threshold required for the applicability of the Trade Agreements Act of 1979. By letter dated December 19, 1989, the Trade Representative notified GSA that the threshold was being changed from $156,000 to $172,000.

3. *Effective date.* All solicitations issued on or after January 1, 1990, that are subject to the Trade Agreement Act, shall cite the new dollar threshold of $172,000.

4. *Expiration date.* This Acquisition Circular expires 12 months after issuance unless canceled earlier or extended.

5. *Reference to regulation.* Section 525.402(a) of the General Services Administration Acquisition Regulation.

6. *Instructions/Procedures.* (a) Section 525.402, as amended by Acquisition Circular AC-89-3, dated August 9, 1989, is amended to revise paragraph (a) to read as follows:

List of Subjects in 48 CFR Part 525

Government procurement.

Title 48, part 525 is amended as follows:

1. The authority citation for 48 CFR part 525 continues to read as follows:

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

2. In section 525.402 paragraph (a) is revised as follows:

525.402 Policy.

(a) Under FAR 25.402(a), when the estimated value of all items or products (exclusive of any item or product within any of the exceptions described in FAR 25.403) listed in the solicitation exceeds the Trade Agreements Act threshold, contracting officers shall evaluate offers without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The Trade Agreements Act threshold is $172,000.

* * * * *

Dated: December 22, 1989.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 90-151 Filed 1-4-90; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 173

[Docket No. HM-201B; Amdt. Nos. 171-108, 173-220]

RIN 2137-AB39

Shippers; Use of Tank Car Tanks With Localized Thin Spots; Response to Petitions for Reconsideration

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule, corrections.

SUMMARY: In response to petitions for reconsideration, RSPA is amending the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to (1) permit the use of railroad tank car tanks with tank shell thicknesses in localized areas less than the minimum specified in the HMR and (2) require the measurement of tank car tank thicknesses under certain conditions. This action is necessary to permit continued use of certain cars with reduced shell thicknesses and verify that tank repairs do not result in significant decreases in shell thicknesses. The intended effect of this action is to assure that tank repairs do not result in a reduction in the level of safety and to facilitate commerce by allowing the use of tank car tanks, with localized thin spots, which have been determined to be safe for the transportation of hazardous materials. The petitions for reconsideration are granted in part as described herein. To the extent the petitions are not granted, the issues raised in them will be considered under Docket HM-201.

EFFECTIVE DATE: These amendments are effective on January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, Federal Railroad Administration, RRS-2, Washington, DC 20590, Telephone (202) 366-0897.

SUPPLEMENTARY INFORMATION:

Amendment No. 173-208

On February 28, 1989, RSPA published a final rule in the **Federal Register**, under Docket HM-201B, Amendment No. 173-208 (54 FR 8336). Amendment 173-208 permitted the use of railroad tank car tanks where tank repairs had caused the tank shell thickness in localized areas to fall below the dimensions stated in part 179 of the HMR; it also required the measurement of tank car tank thicknesses under certain conditions This action was based on (1) the belief that small localized reductions of shell thickness due to tank repairs would not significantly reduce the safety of tank car tanks, and (2) the observation that some repair facilities were removing tank metal in the course of repairs without measuring the reduction in tank thickness. In developing Amendment No. 173-208, RSPA and FRA relied on a study ("DOT 105/111/112/114 Tank Cars Shell Cracking and Structural Integrity Assessment," November 1986) conducted by DOT's Transportation Systems Center (TSC) and a table ("Allowable Thickness Reduction from Minimum Prescribed Thickness of Carbon Steel Tank Car Tanks") developed by the Association of American Railroads (AAR) Tank Car Committee. The interested reader is directed to Amendment No. 173-208 and Notice No. 87-11 (52 FR 46511) for additional background information concerning this rulemaking.

Petitions for Reconsideration

In response to Amendment No. 173-208, RSPA received 13 petitions for reconsideration. On May 10, 1989, RSPA and FRA met with the petitioners to clarify certain aspects of their petitions. A summary of that meeting is in the docket. Subsequent to the meeting, the AAR submitted a technical report (M.R. Johnson and E.A. Phillips, "Study of Railroad Tank Car Thickness Minimums," Report No. RA-12-3-56, May 5, 1989) in support of its petition for reconsideration. The Railway Progress Institute (RPI) also submitted a survey of its members in support of its petition. Both of the latter documents are included in the docket.

None of the petitioners for reconsideration disagreed with the concept that tank car tanks with small localized reductions of shell thickness due to tank repairs should be allowed to continue in service. Instead, all of the petitioners requested additional relief.

Meaning of Part 179 Standards

Petitioners contend that the construction standards in part 179 specify a minimum tank thickness "after forming" of the various sections which are then joined to become the completed tank, and, once the tank is completed, § 173.31 describes a continuing qualification standard using hydrostatic and visual inspection techniques to check for tank integrity.

Petitioners point to the fact that the HMR do not require that tank thickness be measured once the tank is assembled or during its service life. The primary reason that the HMR do not require tank thickness measurements is that, until recently, there were no reliable field-operable, non-destructive thickness testing techniques of sufficient accuracy for making thickness measurements of completed tanks. With no techniques to measure whatever thinning may have occurred, monitoring of a service life shell thickness was impractical.

DOT has service life shell thickness standards for cargo tanks and intermodal portable tanks. In addition, in August 1986, FRA's Chief Counsel stated in a letter to the AAR (a copy of which is in the docket) that FRA "cannot accede" to AAR's position that part 179 does not establish service life shell thickness standards.

RSPA and FRA have concluded that the shell thickness issue can be resolved only through a careful rulemaking process exploring all aspects of the issue, *e.g.*, whether different requirements should apply depending on the type of car, its age, or the commodity being hauled. DOT has a current, companion rulemaking proceeding, Docket HM-201, in which these issues will be resolved. An NPRM under that docket addressing these issues will be issued soon. Until a final rule emerges in that docket, the shell thickness requirements specified in part 179, as amended by this final rule, are the minimum in service shell thickness requirements throughout the life of a tank car. Tank car thickness measurements, however, are required only at the time of construction and at the time of a repair involving removal of metal, as provided for in this rulemaking. Of course, the requirements for hydrostatic testing and visual observation must also be adhered to strictly.

Corrosion and Other Mechanical Conditions

Several petitioners contended that Amendment No. 173-208 was too limited in that it addressed only reductions in tank shell thickness due to repair and not reductions due to such other factors as corrosion. These petitioners believe that all reductions in tank shell thickness should be treated alike. RSPA and FRA believe that reductions in tank shell thickness due to causes other than tank repair should be carefully considered. For example, a reduction in shell thickness due to corrosion is potentially more serious than a similar reduction due to a repair, because the former indicates that additional reductions in shell thickness are likely to occur unless the tank user makes operational or mechanical changes.

Several of the petitioners for reconsideration estimate that between

30 and 50 percent of the tank car tanks in hazardous material service are thinner than the standards set in part 179. However, none of those estimates were based on a proven scientific sampling; in fact all but one of the parties acknowledged that the estimates were merely guesses. One party stated that during an *ad hoc* check of hazardous materials tank cars being serviced it was found that one third had thicknesses less than those stated in part 179. On August 31, 19891 RPI submitted to RSPA and FRA a survey of its membership (a copy of which is in the docket). RPI's extrapolation of that survey indicates that as many as 36,800 tank cars may have thicknesses less than those stated in part 179. RPI provided no information about the methodology used to conduct its survey. Because this issue is outside the scope of this docket, it will be addressed in Docket HM-201.

Tank Car Classes

Several petitioners recommended that the scope of Amendment No. 173-208 be expanded to include other classes of tank car tanks. In Amendment No. 173-208, the relief was limited to DOT class 105, 109, 111, 112, and 114 tank car tanks, because (1) both the TSC and AAR studies discussed above were limited to those classes of tank car tanks, and (2) other classes of tank car tanks may be very thin (*e.g.*, a DOT class 103 or 104 tank car tank can be as thin as ¼ inch on the top shell areas and a DOT class 115 tank car tank or AAR specification 206W tank car tank can be as thin as ⅛ inch in the inner tank). Upon further consideration, RSPA and FRA conclude that Amendment No. 173-208 is too restrictive as to the classes of tank car tanks for which relief is given. As several petitioners pointed out, most DOT class 103 and 104 tank car tanks have tank car thicknesses greater than ¼ inch. Accordingly, § 173.31(a)(11) is being revised to allow the use of (1) large (i.e., inside diameter greater than 96 inches) diameter DOT class 103 or 104 tank car tanks with repair-caused thin spots anywhere on the tank except the lower half of the head ends, (2) small diameter DOT class 103 or 104 tank car tanks with repair-caused thin spots anywhere on the tank except the lower half of the head ends and the top shell areas, and (3) DOT class 115 and AAR specification 206W tank car tanks with repair-caused thin spots anywhere on the outer shell, except the lower half of the head ends of the outer shell. This final rule does not provide any relief for small diameter DOT class 103 or 104 tank car tanks with thin spots on the top shell areas or for DOT class 115 or AAR specification 206W tank car tanks with thin spots anywhere on the inner tank area. RSPA and FRA believe that the minimum tank thicknesses for the top shells of small DOT class 103 or 104 tanks and the minimum inner tank thicknesses for DOT class 115 and AAR specification 206W tank car tanks are appropriate as provided in part 179.

Materials

Several petitioners recommended that the scope of Amendment No. 173-208 be expanded to include materials of construction other than carbon steel. In Amendment No. 173-208, the relief was limited to carbon steel tank car tanks, because both the TSC and AAR studies discussed above were limited to carbon steel tank car tanks. Upon further consideration, RSPA and FRA conclude that Amendment No. 173-208 is too restrictive; accordingly, relief is also being given to stainless steel tank car tanks and manganese-molybdenum steel tank car tanks. RSPA and FRA believe that the known physical properties of those materials support such an expansion of relief.

No relief is being provided for aluminum or nickel tank car tanks. Tentative research results from a study sponsored by FRA, with support from RPI and the AAR, indicate that aluminum tank car tanks, even when having tank thicknesses complying with part 179 of the HMR, may be punctured in impacts at low speeds. RSPA and FRA are not aware of any puncture tests of nickel tank car tanks, but based upon the physical properties of nickel, believe that nickel tank car tanks might also be punctured at low speeds. However, relief for existing aluminum or nickel tank car tanks that have thin spots will be considered in Docket HM-201.

Allowable Limits of Tank Thickness Reduction

Several petitioners recommended that the scope of Amendment No. 173-208 be expanded to allow increases in the allowable area of the reduction of shell thickness and/or in the amount of the reduction of shell thickness. Several petitioners specifically endorsed the table entitled "Allowable Thickness Reduction from Minimum Prescribed Thickness of Carbon Steel Tank Car Tanks" submitted by the AAR in comments to Notice 87-11. At the May 10, 1989, meeting discussed above, the AAR announced that it would be submitting two technical reports in support of the AAR table and on June 12, 1989, the AAR submitted one of the reports (Report No. RA-12-3-56). After reviewing the petitions and Report No. RA-12-3-56, RSPA and FRA have concluded that sufficient data is not now available to permit relaxing the limits imposed in Amendment No. 173-208. However, relief for existing tank car tanks that have thin spots greater in area or in depth than is allowed in this final rule will be fully considered in Docket HM-201.

Tank Car Structure

Several petitioners recommended that the scope of Amendment No. 173-208 be expanded to allow the use of tank car tanks with thin spots on tank car structures not complying with § 6.2 of the AAR Specifications for Tank Cars. RSPA and FRA restricted the scope of Amendment No. 173-208 based on the recommendations of the AAR in their comments concerning Notice 87-11. In those comments, AAR presented a table of suggested allowable thickness reductions and noted "that the thickness reductions set forth in the table would be permitted only if the structural design requirements set forth in the AAR's Specification for Tank Cars (Specification M-1002), § 6.2, are met." In their petition for reconsideration, the AAR revised their position and recommended that tank car structural design not be a factor in allowing thin spots on tank car tanks.

RSPA and FRA understand that AAR adopted § 6.2 because some tank cars had buckled in railroad service. RSPA and FRA continue to believe that there might be an unacceptable reduction in safety if thin shell tank car tanks were permitted to be used in combination with car structures that are prone to buckling. Therefore, this final rule does not provide any relief for tank car tanks that are attached to car structures that do not comply with § 6.2 of the AAR Specifications for Tank Cars. However, this issue will also be addressed in Docket HM-201.

Ethylene Oxide Tank Car Tanks

AAR Report No. RA-12-3-56 pointed out that the TSC study discussed above identified a potential safety hazard associated with thin wall DOT class 111 tank car tanks carrying ethylene oxide, but that Amendment No. 173-208 prohibits the use of not only thin wall DOT class 111 tank car tanks, but also certain thin wall DOT class 105 for carrying ethylene oxide which have not been identified as posing a safety hazard. In this final rule § 173.31(a)(11)(v) is modified to allow the use of thin wall DOT class 105 tank car tanks for ethylene oxide.

Repairs Requiring Tank Measurement

One petitioner recommended that Amendment No. 173–208 be rewritten to provide criteria for what constitutes a tank car tank repair. The petitioner stated that the trigger mechanisms in Amendment No. 173–208 for the measurement of a tank car tank wall thickness are tank repairs. However, the trigger mechanisms are "tank repairs, alterations, or conversions of a tank car tank *that result in a possible reduction in the tank thickness at any point* (emphasis added)." RSPA and FRA believe that § 173.31(f) in Amendment No. 173–208 is clear as to when a measurement of a tank wall thickness is required.

Definitions

Section 179.201–2 provides that certain DOT class 103 and 104 tank car tanks may have reduced tank thicknesses in the "top shell" area of the tank, but that area is not defined. This rule would define, in § 171.8, the top and bottom shell area in accordance with the AAR Tank Car Committee's guidelines.

Editorial Changes

This final rule makes the following editorial changes to Amendment No. 173–208: (1) In § 173.31, paragraph (a)(1) is revised to correct the inadvertent omission of "(a)(2)" from the beginning sentence, and (2) paragraphs 173.31(a)(11)(iii) and 173.31(a)(11)(vii) are revised for clarity.

Administrative Notices

RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental entities; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. *4321 et seq.*).

A regulatory evaluation developed for Amendment No. 173–208 is available for review in the Docket. This rule does not change the assessments made in that regulatory evaluation.

Based on information concerning the size and nature of entities likely to be affected by this final rule, I certify that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

I have reviewed this regulation in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effects on States, on the Federal-State relationship, or on the distribution of power and responsibilities among levels of government. Thus, this regulation contains no policies that have Federalism implications as defined in Executive Order 12612 and, therefore, no Federalism Assessment has been prepared.

This rule is effective in less than 30 days in order to grant relief for certain tank cars that otherwise would not conform to applicable specifications.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Regulatory Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Regulatory Agenda.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 173

Hazardous materials transportation, packaging and containers.

In consideration of the foregoing, 49 CFR parts 171 and 173 are amended as follows:

PART 171—GENERAL INFORMATION REGULATIONS AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, and 1808; 49 CFR part 1.

2. In § 171.8, the following definitions are added, in appropriate alphabetical order:

§ 171.8 Definitions and abbreviations.

* * * * *

"Bottom shell" means that portion of a tank car tank surface, excluding the head ends of the tank car tank, that lies within two feet, measured circumferentially, of the bottom longitudinal center line of the tank car tank.

* * * * *

"Top shell" means the tank car tank surface, excluding the head ends and bottom shell of the tank car tank.

* * * * *

PART 173—SHIPPERS-GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

3. The authority citation for part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807 and 1808; 49 CFR part 1, unless otherwise noted.

4. In § 173.31, the introductory phrase of the first sentence in paragraph (a)(1) is revised and paragraph (a)(11) is revised, to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(1) Except as otherwise provided in paragraphs (a)(2) and (a)(11) of this section, * * *

* * * * *

(11) A tank car tank which as a result of a tank repair has one or more localized areas where the thickness of the tank is less than that prescribed in part 179 of this subchapter may be used to transport hazardous materials provided that—

(i) The tank is constructed of carbon steel, stainless steel, or manganese-molybdenum steel;

(ii) With respect to a DOT class 103 or 104 tank car tank with an inside diameter of 96 inches or less, the minimum plate thickness of the top shell sheets is not less than that prescribed in § 179.201–2 of this part;

(iii) The difference between the minimum thickness, after forming, of the tank car tank stated in part 179 of this subchapter and the actual thickness at the point of repair after repair of the tank car tank does not exceed one-sixteenth of an inch;

(iv) The total cumulative surface perimeter of the reductions in shell thickness on each tank car tank does not exceed six feet;

(v) The tank is not a DOT Class 111 tank car tank used for the transportation of ethylene oxide;

(vi) There are no reductions in shell thickness on the lower half of any tank car tank head or the lower half of the outer shell of a DOT class 115 tank car tank or a DOT specification 206W tank car tank;

(vii) No localized area with a reduction in shell thickness includes any scores, gouges or other areas of stress concentration;

(viii) The tank car tank is attached to a car structure that conforms with section 6.2 of the AAR Specifications for Tank Cars; and

(ix) With respect to a DOT class 115 tank car tank or a DOT specification 206W tank car tank, there are no reductions in the thickness of the inner tank.

* * * * *

Issued in Washington, DC on December 29, 1989 under authority delegated in 49 CFR 1.53.

Mark Dowis,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 90-296 Filed 1-4-90; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB23

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Endangered Mount Graham Red Squirrel (Tamiasciurus hudsonicus grahamensis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is designating critical habitat for the Mount Graham red squirrel (*Tamiasciurus hudsonicus grahamensis*) under the authority contained in the Endangered Species Act of 1973, as amended. The Mount Graham red squirrel was listed as an endangered species under the Act on June 3, 1987; however, final designation of the proposed critical habitat was postponed at that time in accordance with section 4(b)(6)(C) of the Act. Critical habitat is now being designated in portions of the Coronado National Forest in Graham county, Arizona. Federal actions that may affect the areas designated as critical habitat are now subject to consultation with the Service, pursuant to section 7(a)(2) of the Act.

EFFECTIVE DATE: February 5, 1990.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service Ecological Services Office, 3616 W. Thomas Rd., Suite #6, Phoenix, Arizona 85019.

FOR FURTHER INFORMATION CONTACT: Lesley Fitzpatrick, Endangered Species Biologist, (see **ADDRESSES** above) (602/261-4720 or FTS 261-4720).

SUPPLEMENTARY INFORMATION:

Background

The Mount Graham red squirrel is a small grayish brown arboreal species, tinged rusty or yellowish along the back. In summer, a dark lateral line separates the light colored underparts from the grayer or browner sides (Spicer et al. 1985).

The Mount Graham red squirrel's range lies entirely within the Safford Ranger District of the Coronado National Forest. This squirrel is now found at highest densities in Engelmann spruce (*Picea engelmannii*) and/or fir, especially corkbark fir (*Abies lasiocarpa* var. *arizonica*). In 1986, forty-eight percent of the active middens were above 10,200 feet (3109 m) in mature Engelmann spruce/corkbark fir (Warshall, Office of Arid Land Studies, pers. comm., 1986). Lower densities have been found in old growth Douglas fir (*Pseudotsuga menziesii*) and/or white fir (*Abies concolor*), often associated with Englemann spruce. Its diet consists largely of conifer seeds, and during the winter it depends on seed-bearing cones that it has stored at sites known as middens. The condition of midden sites is important and must remain cool and moist to preserve the cones and to prevent them from opening and losing their seeds. These caches, usually associated with logs, snags, stumps, or a large live tree, are the focal points of individual territories, and the number of midden complexes offers an approximation of the number of resident red squirrels in a particular area. In a 1986 midden census, the density of squirrels in excellent habitat was 15 per 100 acres (40.5 hectares), which is in the low end of the range for red squirrel densities in North America (Smith et al. 1988).

The Mount Graham red squirrel was described by Allen in 1894, based on three specimens taken that same year on Mount Graham in the Pinalenos. Subsequent reports indicate that the subspecies was common around the turn of the century, but was declining by the 1920's and rare by the 1950's (Hoffmeister 1956). This situation apparently was associated with loss and disruption of forest habitat, and perhaps with competition from an introduced population of the tassel-eared, or Abert's, squirrel (*Sciurus aberti*). From 1963 to 1967, Minckley (1968) was unable to find the Mount Graham red squirrel and was concerned that the subspecies had become extinct. Later, however, the continued existence of the Mount Graham red squirrel was verified. A Service-funded status survey in 1984-1985 located this mammal or its fresh sign at 16 localities in the Pinalenos and estimated the number of squirrels as 300-500 animals (Spicer et al. 1985). More recent midden surveys indicate that this estimate was too high. Based on a midden census in the spring of 1986, there were an estimated 328 red squirrels. This number dropped 25 percent by the fall of 1987, when 246 squirrels were estimated (Smith et al. 1988), and in the spring of 1988 was estimated at about 200. The spring of 1989 survey yielded a population estimate of 99-150 (L. Fitzpatrick, U.S. Fish and Wildlife Service, pers. comm., 1989). The June 1989 survey yielded a population estimate of 116-167 (K. Milne, pers. comm., 1989).

In both its original Review of Vertebrate Wildlife, published in the **Federal Register** on December 30, 1982 (47 FR 58454-58460), and the revised version, published on September 18, 1985 (50 FR 37948-37967), the Service included the Mount Graham red squirrel in category 2, meaning that information then available indicated that a proposal to determine endangered or threatened status was possibly appropriate but was not yet sufficiently substantial to biologically support such a proposal. The status survey and more recent surveys by the U.S. Forest Service (USFS), Arizona Game and Fish Department (AGFD), and the University of Arizona (U of A) have since become available and provide a substantial basis for determination of endangered status. Although the squirrel does still survive, its range and numbers have been reduced, and its habitat is threatened by a number of factors, including proposed construction of an astrophysical observatory. The Service published a proposed rule to list this subspecies as endangered on May 21, 1986 (51 FR 18630-18634). The rule designating this squirrel as endangered was published on June 3, 1987 (52 FR 20994). In accordance with section 4(b)(6)(C) of the Act, the proposed critical habitat designation was not made final at the time of listing, but was postponed for an additional year to allow for gathering and analyzing of economic data.

Summary of Comments and Recommendations

In the May 21, 1986, proposed rule and associated notifications, all interested parties were asked to submit factual reports or information that might contribute to the development of a final rule. The original comment period closed on July 21, 1986, but was reopened on August 26, 1986 (51 FR 27429), to accommodate two public hearings and remained open until November 21, 1986. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice, inviting general public comment, was published in the

Eastern Arizona Courier on June 18, 1986.

Requests for a public hearing were received, and public hearings were held in Tucson and Thatcher, Arizona, on August 26 and 27, 1986, respectively. Interested parties were contacted and notified of those hearings, and notices of the hearings were published in the **Federal Register** on July 31, 1986 (51 FR 27429); the *Arizona Daily Star* on August 11, 1986; and the *Eastern Arizona Courier* on August 13, 1986. About 320 people attended the hearings. Comments on the proposed rule, including critical habitat, were received in the hearings and are also summarized below.

A total of 135 comments on the proposed rule were received; 64 supported the proposal; 29 questioned or opposed the proposal; and 42 either commented on information in the proposal but expressed neither support nor opposition, were non-substantive or irrelevant to the proposal, or contained only economic information related to critical habitat designation.

Oral or written statements were received from 94 entities at the hearings; 21 supported the proposal, 13 questioned or opposed the proposal, and 60 neither supported nor opposed, were non-substantive or irrelevant to the proposal, or contained only economic information related to critical habitat designation.

All letters and written or oral statements received during the comment period and public hearings are combined in the following discussion. Relevant economic information supplied in these comments was incorporated into the Economic Analysis on proposed critical habitat. That analysis is available upon request as are copies of all letters received and of the hearing transcripts (see ADDRESSES).

Comments of support were received from the U.S. Forest Service, Arizona Game and Fish Department, State of Arizona, Office of Arid Land Studies (U of A), Defenders of Wildlife, Arizona Chapter of The Wildlife Society, Mount Graham Conservation Project, Coalition for the Preservation of Mount Graham, Earth First!, Tucson Audubon Society, Grand Canyon Chapter of the Sierra Club, Flagstaff Archers, Cochise Conservation Council, Arizona Flycaster's Club, Huachuca Audubon Society, Arizona Wildlife Federation, Arizona Nature Conservancy, Tucson Rod and Gun Club, Animal Defense Council, Southern Arizona Hiking Club, Southern Arizona Roadrunners Club, a member of the Pima County Board of Supervisors, and 54 private individuals.

Comments questioning or in opposition to the proposal were received from two State legislators, Picture Rocks Observatory, two employees of Steward Observatory, the Vice-President of Research and the President of the University of Arizona (U of A), a member of Citizens for Science, a member of the Gila Valley Economic Development Foundation, the Mayor of Safford, and 24 private individuals.

Comments that expressed neither support nor opposition were non-substantive, irrelevant to the proposal, or contained only economic information related to critical habitat designation were received from the Arizona Board of Regents, two faculty members from the Department of Ecology and Evolutionary Biology at the U of A, four employees of Steward Observatory (including the Director), a research specialist with the U of A's College of Business, the Director of the Drachman Institute for Land and Regional Development Studies at the U of A, a member of the Physics Department at Arizona State University, a member of Graham County's Board of Supervisors, a representative for Representative Jim Colbe, a representative for Senator DeConcini, a State legislator, three members of Citizens for Science, a councilman for the City of Safford, Lowell Observatory, a member of the Gila Valley Economic Development Foundation, and 59 individuals.

Summaries of substantive comments addressing the designation of critical habitat for the Mount Graham red squirrel are covered in the following discussion. Comments of similar content are placed in a number of general groups. These comments and the Service's responses are given below:

Issue 1: Several commenters suggested that the proposed critical habitat be enlarged to include some occupied areas that are outside of the proposed critical habitat and some unoccupied areas that may be important in the recovery of the species. Others asked why areas at lower elevations where red squirrels have been previously observed and where they appear to have survived their most vulnerable period in history are not included in critical habitat. In addition, the University of Arizona has asked that we "delay the designation of critical habitat for a limited period of time to allow the development of an HCP [Habitat Conservation Plan] for the species, and to allow a more precise delineation of the boundaries of the critical habitat." The University of Arizona further stated that "the designation of critical habitat at this time is neither 'prudent' nor 'determinable'."

Service response: The Service believes that the designation of critical habitat is both prudent and determinable. The best data currently available to the Service support the importance of the proposed critical habitat area for the survival of the Mount Graham red squirrel, and we believe this area warrants designation as critical habitat. The area at the higher elevations appears to be the most important to this squirrel and contains the highest density of squirrel middens. In 1986, about 48 percent of all active middens were above 10,200 feet; and the proposed critical habitat contained about 70 percent of all known squirrel middens (Warshall, OALS, *in litt.*, 1986). The Endangered Species Act provides that additional critical habitat can be proposed in the future if warranted.

CPR HCP's were discussed under the Service's response to issue 1 in the final listing of the species (52 FR 20994, June 3, 1987). Under circumstances where the entire range of the listed species is contained within the jurisdiction of one land manager, however, HCP's are of little practical value. In this instance the entire range of the red squirrel is within Coronado National Forest. The Forest Management Plan serves the same function that an HCP would serve.

Issue 2: University of Arizona requested that the potential astrophysical sites be excluded from critical habitat designation because "the designation of critical habitat in this area could significantly disrupt the establishment of any astrophysical facilities on the Mountain."

Service response: Section 4(b)(2) of the Endangered Species Act states:

> The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

The Service does not believe that potential astrophysical sites should be excluded from critical habitat designation. Elimination of sites from critical habitat that may never be used for telescopes would be unsupportable either economically or biologically. In light of the Service's biological opinion, issued July 14, 1988, that the development of three telescopes on Emerald Peak is not likely to jeopardize the continued existence of the Mt. Graham red squirrel or to result in the destruction or adverse modification of the proposed critical habitat under the provisions of Reasonable and Prudent

Alternative 3, no disruption to the construction or operation of the three telescopes is expected. Therefore, the benefits of retaining these areas in the critical habitat outweigh the benefits of excluding them.

Issue 3: The economic effect of critical habitat designation should be based primarily on values as they currently exist and not on proposed values.

Service response: In our Economic Analysis the Service is supposed to consider *reasonably* foreseeable (authorized, permitted, funded) impacts of those activities that may affect or be affected by the critical habitat designation.

Critical Habitat

Critical habitat, as defined by section 3 of the Act, means: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Section 4(b)(6) requires that a proposed listing be made final within 1 year from the publication of the proposed rule, but provides for an additional 1-year extention for the final designation of critical habitat, if necessary. Critical habitat is being designated for the Mount Graham red squirrel to include three areas in the Coronado National Forest, Graham County, Arizona. These areas are precisely delineated below in the "Regulations Promulgation" section. The names applied to the areas—Hawk Peak/Mount Graham, Heliograph Peak, and Webb Peak—refer to prominent mountains. The areas have irregular shapes, but cover a total of about 2,000 acres (800 hectares).

The three designated areas contain major concentrations of the Mount Graham red squirrel, and the habitat necessary to its survival, including cover, food sources, nest sites, and midden sites. The winter survival of the red squirrel depends primarily on the availability of seeds of cones stored in middens. Therefore, an environment in which the midden-cached cones will stay cool and moist, and be prevented from opening and losing their seeds, is of critical importance. Such an environment is most often found in dense, shady forest above 10,000 feet (3,048 meters) and at lower elevations on north-facing slopes or in protected pockets and small basins (Spicer et al. 1985).

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may be affected by such designation. As the Mount Graham red squirrel requires dense spruce-fir forest, it would suffer through activities that destroy such habitat or substantially reduce forest density. Potential activities that could adversely affect the habitat include timber harvesting and recreational development that proceed without adequate consideration of the welfare of the squirrel, and construction of the proposed astrophysical facility in the Graham Mountains. Any such activities that take place on national forests would require authorization by the U.S. Forest Service. Because all of the critical habitat of the Mount Graham red squirrel is within a national forest, the activities in question could require appropriate Forest Service conferral and/or consultation as described below under "Available Conservation Measures."

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has considered the critical habitat designation in light of all additional relevant information obtained during the public comment period and public hearings. An Economic Analysis and Determination of Effects of the critical habitat designation have been prepared and are available upon request. Adjustment of the critical habitat delineation is not warranted based on the economic and other impacts brought forward between the proposed and final rules. Conclusions of the economic documents are summarized in the "Regulatory Flexibility Act and Executive Order 12291" section of this rule.

The 24 acres of the 150-acre Mt. Graham International Observatory Site that may be developed for astrophysical purposes lie in an area of red squirrel concentration composed largely of excellent habitat. Many activities inside the 24 acres can affect the larger area around it. Thus, removal of the 24-acre site from critical habitat would not have relieved the Forest Service from the need to consult on the astrophysical development, independent of any economic benefit applicable to critical habitat boundaries. Excluding the entire 150-acre site would not solve any issue and creates a new concern. A large exclusion area on Emerald Peak would eliminate important protection for the habitat supporting the red squirrel concentration. Excellent habitat is in short supply for this species, totalling only four percent of the total habitat. The reduction in protection of the larger Emerald Peak area by excluding it from critical habitat would render the population of red squirrels more vulnerable, and at June 1989 estimated population levels (116–167 individuals), no reduction in the protection for important habitats can be supported biologically. Therefore, the Service has determined that the potential benefits of excluding the astrophysical site from critical habitat designation do not warrant excluding that area from critical habitat.

Available Conservation Measures

Section 7(a)(2) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to the habitat that has been designated as critical. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Because the Mount Graham red squirrel occurs in highest densities in dense spruce-fir forest, it would suffer through activities that destroy such habitat or substantially reduce forest density. Potential activities that could adversely affect the habitat include timber harvesting and recreational development that proceed without adequate consideration of the welfare of the squirrel, and construction of the proposed astrophysical facility in the Graham Mountains. Any such activities that take place on national forests would require authorization by the U.S. Forest Service. Because the entire range of the Mount Graham red squirrel is within a national forest, the activities in question that are not otherwise covered in the permit issued by the Forest Service to the University of Arizona (April 7, 1989) for construction of three

telescopes and related activities could require appropriate Forest Service conferral and/or consultation as described above.

Formal consultation on the proposed astrophysical development and Forest Plan was initiated on February 17, 1988, and was completed on July 14, 1988.

The endangered status of the Mount Graham red squirrel, under provisions of section 4(a)(1) of the Endangered Species Act of 1973, as amended, is not affected by this designation of its critical habitat.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule contains no information collection or record keeping requirements, as defined under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

The added cost (if any) to the Forest Service cannot be determined. Estimated non-Federal costs that could possibly have resulted if the critical habitat designation had precluded astrophysical development in the Graham Mountains were the preclusion of a potential 2.5 percent increase in employment in Graham Co., AZ, and a potential 0.5 percent (or less) increase in Pima Co., AZ. However, establishment of the Mt. Graham Observatory was granted by law. Thus, the economic restrictions possible under the designation of critical habitat become less because almost half the facility will be constructed in any case.

In summary, adjustment of the critical habitat delineation is not warranted based on the economic and other impacts. No direct costs, enforcement costs, or information collection or recordkeeping requirements will be imposed on small entities by the designation. These determinations are based on a Determination of Effects that is available at the Phoenix Ecological Services Field Office (see ADDRESSES).

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Smith, R.A., B. Spicer, P. Warshall, R. Wadleigh. 1988. Mount Graham red squirrel. An expanded biological assessment of impacts: Coronado National Forest Land Management Plan and University of Arizona Proposal for Mt. Graham Astrophysical Development. 130 pp.

Spicer, R.B., J.C. deVos, Jr., R.L. Glinski. 1985. Status of the Mount Graham red squirrel, *Tamiasciurus hudsonicus grahamensis* (Allen), of southeastern Arizona. Report to U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico. 48 pp.

Authors

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List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.95(a), by adding critical habitat of the Mount Graham red squirrel in the same alphabetical order as the species occurs in 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

(a) * * *

* * * * *

Mount Graham Red Squirrel *(Tamiasciurus hudsonicus grahamensis)*

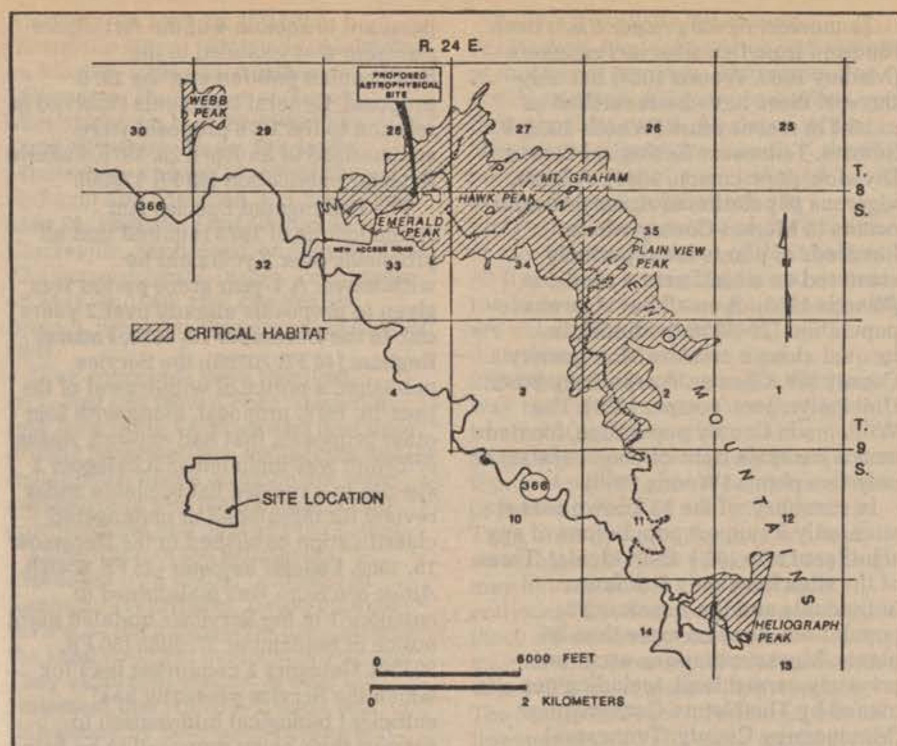
Arizona. Areas of land, water, and airspace in the Coronado National Forest, T. 8 S., R. 24 E., and T. 9 S., R. 24 E. (Gila and Salt River Meridian), Graham County, with the following components:

1. *Hawk Peak-Mount Graham Area.* The area above the 10,000-foot (3,048-meter) contour surrounding Hawk Peak and Plain View Peak, plus the area above the 9,800-foot (2,987-meter) contour that is south of lines extending from the highest point of Plain View Peak eastward at 90° (from true north) and southwestward at 225° (from true north).

2. *Heliograph Peak Area.* The area on the north-facing slope of Heliograph Peak that is above the 9,200-foot (2,804-meter) contour surrounding Heliograph Peak and that is between a line extending at 15° (from true north) from a point 160 feet (49 meters) due south of the horizontal control station on Heliograph Peak and a line extending northwestward at 300° (from true north) from that same point.

3. *Webb Peak Area.* The area on the east-facing slope of Webb Peak that is above the 9,700-foot (2,957-meter) contour surrounding Webb Peak and that is east of a line extending due north and south through a point 160 feet (49 meters) due west of the horizontal control station on Webb Peak.

The major constituent element is dense stands of mature spruce-fir forest.



Dated: November 15, 1989.

Constance Harriman,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 90-282 Filed 1-4-90; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Threatened Status for Apios Priceana (Price's Potato-bean)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Apios priceana* (Price's potato-bean), to be a threatened species under the authority contained in the Endangered Species Act (Act) of 1973, as amended. *Apios priceana* is currently thought extant at only 13 sites including 4 sites in Mississippi and 3 sites each in Alabama, Kentucky and Tennessee. Approximately 40 percent of its populations have not been relocated in recent years. Only 5 of the extant sites support populations of any significant size (50+ individuals). Many of these populations are declining and are threatened by the adverse modification or loss of habitat through cattle grazing/trampling, clear-cutting and succession. Those sites near roadsides or powerline rights-of-way are potentially threatened by herbicide application. This action will extend the Act's protection to *Apios priceana*.

EFFECTIVE DATE: February 5, 1990.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jackson, Mississippi Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Cary Norquist at the above address (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

Apios priceana, a member of the pea family, is a twining perennial vine, climbing to 5 meters (15 feet) from a large, thickened tuber. Leaves are alternate, pinnately compound with typically 5 to 7 leaflets that are ovate lanceolate to broadly ovate in shape. The inforescence is borne in the leaf axils and consists of racemes or compact panicles, 5-15 centimeters (cm) (2-6 inches) long. Individual flowers are about 2 cm (¾ inches) in length and greenish-white tinged with purplish-pink in color. The fruit is a cylindrical legume 13-20 cm (5-8 inches) in length. Flowering occurs from mid-June through August, with fruits present from late August through September (Kral 1983, Medley 1980, Woods 1988).

This species can be distinguished from *Apios americana* (ground-nut), the only other North American species of *Apios*, on several taxonomic characters. Most notable is the single large tuber of *Apios priceana*, as compared to the multiple small tubers in *Apios americana*. *Apios priceana* typically has larger leaves, more leaflets, and longer fruits. The standard petal (uppermost petal) is more yellow-green than purplish-maroon (as in *Apios americana*), and has a fleshy mucro-like appendage at its tip (Kral 1983, Medley 1980, Woods 1988).

Apios priceana is of potential economic importance as a food crop. Its large single tuber is edible (National Academy of Sciences 1979, Walter *et al.* 1986) and it may have been a food source for Indians and pioneers (Medley 1980), as was the more common *Apios americana* (Yanovsky 1936, National Academy of Sciences 1979, Seabrook and Dionne 1976). Walter (*et al.* 1986) suggests that *Apios priceana* is perhaps most valuable as a source of germ plasm for breeding with other *Apios* species. Such hybridization would increase tuber size and expand land utilized, since *Apios priceana* can grow in highly alkaline, wooded habitats (Walter *et al.* 1986).

This species was first collected by Sadie Price near Bowling Green in Warren County, Kentucky in 1896 and later described by Robinson (1898). *Apios priceana* was transferred to *Glycine priceana* by Britton and Brown in 1913, a transfer that was invalid since *Apios* had already been conserved over *Glycine* (Woods 1988).

Apios priceana is thought to be a native of forest openings (Medley 1980). Populations occur in open woods and along wood edges in limestone areas, often where bluffs grade into creek or river bottoms (Kral 1983, Medley 1980). Several populations reportedly extend onto roadside or powerline rights-of-way. The soils are described as well drained loams on old alluvium or over limestone (Kral 1983). Habitat is described as mixed hardwoods with such common associates as *Quercus muhlenbergii, Lindera benzoin, Campanula americana, Arundinaria gigantea, Tilia americana, Fraxinus americana, Acer saccharum, Ulmus rubra, Cercis canadenisis,* and

Parthenocissus guinguefolius (Medley 1980).

Apios priceana has been reported from 21 sites in five states; however, approximately 40 percent of these are apparently no longer extant. Currently, this species is known to exist at only 13 sites with populations in Alabama, Kentucky, Mississippi, and Tennessee. A summary of the information currently available on the status of *Apios priceana* throughout its range is given below:

Alabama: There are three populations of *Apios priceana* in Alabama. Modest populations (15–30 individuals) occur in Madison County and in Autauga County. The third site, located in Marshall County, supports a poor population (less than five individuals) that was reportedly etiolated due to excessive shading (Medley 1980).

Illinois: Apios priceana was discovered in Union County, Illinois in 1941 (Kurz and Bowles 1981). This population has not been relocated since the 1970s despite extensive searches by many individuals (Kurz and Bowles 1981, Woods 1988). It is possible that this particular population was destroyed by flooding from a beaver dam; however, suitable habitat still exists in this area, so *Apios priceana* may be rediscovered there in the future (J. Schwegmann, Illinois Natural Heritage Inventory, pers. comm., 1988).

Kentucky: Eight records of *Apios priceana* are reported for Kentucky (Medley 1980); however, only three of these are thought extant and all of these are declining (R. Athey, botanist, pers. comm., 1988; Woods 1988). The Livingston County population, which was estimated as having 50–65 plants in 1984, has been severely degraded since cattle were introduced into the area in 1986 (Woods 1988). At the Trigg County and Lyon County sites, plants extend onto a roadside or powerline right-of-way. The number of plants at the Lyon County site is estimated at 25–30 individuals and only a few plants are reported for the Trigg County population (Woods 1988).

Mississippi: This State supports the largest number of populations, with four sites in three counties (Oktibbeha, Clay, Lee). Two moderate-sized populations (50–80 individuals) are known to occur in Oktibbeha County (W. Morris, Mississippi State University, pers. comm., 1988; K. Gordon, Mississippi Museum of Natural Science, pers. comm., 1988). The Clay County site contains a declining population of 15–20 individuals. The largest population in the State is in Lee County, where several hundred plants are estimated to occur over an acre of area.

Tennessee: Apios priceana has been reported from five sites in Tennessee (Medley 1980, Woods 1988) but only three of these have been verified as extant in recent years (Woods 1988; P. Somers, Tennessee Ecological Services Division, pers. comm., 1988). A large, vigorous population of *Apios priceana* occurs in Marion County where hundreds of plants are reportedly scattered on a bluff near a roadside (Woods 1988). A small but vigorous population (20–30 individuals), is located along a creek in Montgomery County (W. Chester, Austin Peay State University, pers. comm., 1988). The Williamson County population, located near a roadside right-of-way, consists of only two plants (Woods 1988).

In summary, of the 13 known extant sites, only 5 support populations of any significant size (50+ individuals). Three of the sites have only 5 or fewer individuals and the remaining 5 populations have no more than 30 plants. Most populations occur on privately owned land, including one site owned by The Nature Conservancy (Montgomery County, Tennessee). Several populations extend onto State maintained roadside or powerline rights-of-way. Two extant sites occur on lands under Federal jurisdiction including the Trigg County, Kentucky, site, which is on Tennessee Valley Authority land, and the Autauga County, Alabama, site, which is on U.S. Army Corps of Engineers' land. The historical Illinois site is located on U.S. Forest Service land. *Apios priceana* is currently or potentially jeopardized by a multitude of threats including cattle grazing/trampling, clearcutting, excessive shading/weedy competition due to succession, and adverse right-of-way maintenance practices (herbicide application).

Federal actions involving *Apios priceana* began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2), now section 4(b)(3)(A), of the Act and of its intention thereby to review the status of those plants. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Apios priceana* was included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired. *Apios priceana* was included as a category 1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, **Federal Register** (45 FR 82480). *Apios priceana* was maintained in category 1 in the Service's updated plant notice of September 27, 1985 (50 FR 39526). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

Section 4(b)(3) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982 be treated as having been newly submitted on that date. This was the case for *Apios priceana* because of the acceptance of the 1975 Smithsonian report as a petition. In October of 1983, 1984, 1985, 1986, 1987 and 1988, the Service found that the petitioned listing of *Apios priceana* was warranted, but that listing this species was precluded due to other higher priority listing actions. On May 12, 1989, the Service published in the **Federal Register** (54 FR 20619), a proposal to list *Apios priceana* as a threatened species. Publication of the foregoing proposal constituted the final finding required for this species.

Summary of Comments and Recommendations

In the May 12, 1989 proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices, inviting public comment, were published in the *The Progress*, Prattville,

Alabama, on May 20, 1989; the *Huntsville News,* Huntsville, Alabama, on May 20, 1989; *The Northeast Mississippi Daily Journal,* Tupelo, Mississippi, on May 28, 1989; the *Starkville Daily News,* Starkville, Mississippi, on May 27, 1989; *The Paducah Sun,* Pudacah, Kentucky, on May 28, 1989; the *Leaf Chronicle,* Clarksville, Tennessee, on May 21, 1989; *The Jasper Journal,* Jasper, Tennessee, on May 24, 1989; and *The Review Appeal,* Franklin, Tennessee, on May 21, 1989.

Nine comments were received including one from a Federal agency, four from State agencies and four from private organizations, companies and/or individuals. Seven commenters were supportive of this listing, one had no comment and one opposed the listing.

Opposition to the listing was expressed by a timber company in Kentucky (Westvaco), based on their review of the information presented in the legal notice in the local newspaper. They expressed confusion over the statement that *Apios priceana* was threatened by both clear-cutting and succession and were concerned over how this listing would affect timber operations in Kentucky. As discussed in the proposal and this final rule (see "Summary of Factors Affecting the Species, Factor A"), *Apios priceana* is a native of forest openings and appears to be enhanced by opening the canopy through light logging. However, this species does not appear to persist in areas that have been heavily timbered. Thinning or selective logging may actually prove to be an appropriate means of improving populations in heavily wooded areas as long as precautions are taken not to damage plants in the process. Therefore, the Service does not view the protection of *Apios priceana* and all timber operations as being incompatible.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Apios priceana* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Apios priceana* Robinson (Price's potato-bean) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Apios priceana* occurs as small disjunct populations throughout its range. As stated in the "Background" section, only 13 of the 21 reported populations are believed extant. Several populations are threatened by the potential destruction or adverse modification of their habitat. At five sites, plants extend onto or near roadside or powerline rights-of-way and are vulnerable to accidental disturbances. Any future road improvements (expansion) or right-of-way maintenance activities (herbicide treatment) at these sites, could adversely impact or destroy populations if proper planning does not occur. One population, located near a roadside in Trigg County, Kentucky, has not been seen since the 1960s (Woods 1988) and may have been destroyed by such activities. The Service will work with these agencies responsible for maintaining these rights-of-way in order to provide these sites with protection. The Madison County, Alabama, site is threatened due to its close proximity to a suburban area (Kral, pers. comm., 1988). The type locality (Warren County, Kentucky) was also located near a rapidly developing area and may have been destroyed by development (Woods 1988).

Two populations, which are enclosed in pastureland, have been adversely impacted due to soil compaction and trampling by cattle. At the Livingston County, Kentucky, site, 50–60 plants were reported in 1984; however, most of these have been destroyed by cattle that were introduced into the area in 1986 (Woods 1988). The Clay County, Mississippi, population has been similarly impacted.

Apios priceana is so rare that little is known about its response to disturbance (Kral 1983). Apparently, this species can withstand some logging in its habitat, as it has been collected in second growth hardwood forest (Kral 1983). Being a native of forest openings, it is thought that selective/light logging would probably enhance this species; however, heavy logging or clearcutting would destroy it (Medley 1980, Kral 1983). R. Athey (pers. comm., 1988) has observed the reappearance of plants in a site when the canopy was opened by light logging. A historical record from Calloway County, Kentucky (Medley 1980), could not be relocated in an area that had been heavily timbered (Woods 1988). Many of the populations occur in hardwood forests that have a potential of being logged in the near future (Medley 1980). Biologically, this species may require specific seral stages or seasonal perturbation (Kentucky Nature Preserves Commission 1982). Further investigation into this aspect of the species' biology is needed in order to perpetuate appropriate habitat conditions.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* As discussed under "Background", *Apios priceana* produces a large edible tuber that may have been a food source for Indians and pioneers. It has been suggested that such utilization in the past could have contributed to its decline and present day rarity (Medley, pers. comm., 1988; Somers, pers. comm., 1988). *Apios priceana* is currently not a component of the commercial trade in native plants; however, publicity from its listing could generate a demand.

C. *Disease and predation.* Cattle grazing appears to pose a threat to this species in those areas enclosed in pastureland (Woods, pers. comm., 1988). However, this is probably secondary to the damage they receive from cattle trampling (see "Factor A" above). *Apios priceana* is not known to be threatened by disease.

D. *The inadequacy of existing regulatory mechanisms. Apios priceana* is officially listed as endangered in Illinois and Tennessee. Illinois law protects listed species on State property; prohibits the sale of State endangered plants; and prohibits taking without the written permission of the landowner. However, *Apios priceana* is not currently known to exist in that State. Under Tennessee legislation, taking is prohibited without the permission of the landowner. This State legislation does not provide protection against habitat destruction and has been inadequate in preventing the decline of this species at several sites. The remaining States in this species' range (Alabama, Mississippi, Kentucky) have no official protective legislation.

The Nature Conservancy owns and provides protection to the Montgomery County, Tennessee, population (Barnett Woods Natural Area). A second population (Trigg County, Kentucky) on Tennessee Valley Authority land, is afforded some protection since it occurs within an area designated as a Conservation Education Center (W. Chester, Austin Peay State University, pers. comm., 1988). However, no protection is given to those plants at this site that extend onto the roadside right-of-way. Habitat that once supported a population of *Apios priceana* in Illinois is within an area designated as an "Ecological Area" by the U.S. Forest

Service and would therefore be protected in the event the species is rediscovered in the area.

The Act would enhance the existing population, provide Federal protection (see "Available Conservation Measures" below), provide an avenue of protection for plants on private land through voluntary Conservation Agreements, and encourage active management for this species.

E. *Other natural or manmade factors affecting its continued existence. Apios priceana* is vulnerable due to its limited distribution and low numbers at many sites. Three populations contain no more than five individuals. The extreme rarity of this plant indicates a narrow ecological amplitude (Kral 1983). As discussed in the "Background" section, *Apios priceana* is believed to be a native of forest openings (Medley 1980). Plants under a completely closed canopy do not appear as vigorous, as they are stunted and mostly vegetative (Medley 1980; Athey, pers. comm., 1988; Woods 1988). Four populations are believed declining due to a heavy canopy closure and weedy competition associated with natural succession. The loss of many of the historical populations is perhaps attributable to this factor. This species appears to need some type of habitat disturbance to arrest succession.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining this rule. Based on this evaluation, the preferred action is to list *Apios priceana* as a threatened species. This species is not in imminent danger of extinction. It has a wide geographic range and two populations are in designated preserves. However, a downward trend is clearly indicated for this species (approximately 40 percent of populations not relocated), and it is likely to become endangered in the foreseeable future if protective measures are not taken. Critical habitat is not being designated for reasons discussed in the following section.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. As discussed under Factor B in the Summary of Factors Affecting the Species. *Apios priceana* may be threatened by taking or vandalism, an activity difficult to enforce against and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of endangered plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make *Apios priceana* more vulnerable and increase enforcement problems. All involved parties and principal landowners will be notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for *Apios priceana*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requries that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

One extant population occurs on land under jurisdiction of the Tennessee Valley Authority. This site is within an area designated for ecological study and is protected. A second site is on U.S. Army Corps of Engineers' land. A historical population from Illinois occurred on U.S. Forest Service land. Suitable habitat still exists in this area so there is the possibility that a population may be rediscovered here in the future. This area is already designated as an ecological preserve (LaRue Hills Ecological Area) and protected accordingly.

Currently, no activities to be authorized, funded, or carried out by Federal agencies are known to exist that would affect *Apios priceana*.

The Act and its implementing regulations found at 40 CFR 17.71 and 17.72 for threatened species set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. The 1988 amendments do not reflect this protection for plants classified as threatened. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, VA 22203 (703/358-2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Cary Norquist (see ADDRESSES section) 601/965–4900 or FTS 490–4900.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407, 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
*	*	*	*	*	*	*
Apios priceana	Price's potato-bean	U.S.A. (AL, IL, KY, MS, TN)	T	372	NA	NA
*	*	*	*	*	*	*

Dated: November 27, 1989.

Knute Knudson, Jr.,

Deputy Assistant Secretary—Fish and Wildlife and Parks.

[FR Doc. 90–283 Filed 1–4–90; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 90524–9274]

RIN 0648–AC44

Atlantic Sea Scallop Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule implementing Amendment 3 (Amendment) to the Fishery Management Plan for the Atlantic Sea Scallop Fishery (FMP). This rule requires: (1) All sea scallop dredge vessels and all vessels landing more than 5 bushels (176.2 L) of sea scallops in the shell to offload all fish (as defined in 50 CFR 620.2, which includes sea scallops) within a specified 12-hour offloading period; and (2) all other vessels landing more than 40 pounds (18.1 kg) of shucked scallops to offload all sea scallops within a specified 12-hour offloading period.

This Amendment also includes a mechanism for modifying offloading periods. The purpose of the Amendment is to improve compliance with the meat count/shell height standards of the FMP and to enhance the efficiency and effectiveness of NMFS enforcement efforts in the Atlantic sea scallop fishery.

EFFECTIVE DATE: February 5, 1990.

ADDRESSES: Copies of the Amendment, which incorporates the environmental assessment and the regulatory impact review (RIR), are available from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul, Resource Policy Analyst, Plan Administration Branch, NMFS Northeast Regional Office, 508–281–9331.

SUPPLEMENTARY INFORMATION: The FMP is implemented by regulations appearing at 50 CFR Part 650. The FMP has been amended three times; twice by the Council and once by the Secretary. Amendment 1 (published November 6, 1985; 50 FR 46069) was to become effective on January 1, 1986, but its effectiveness was delayed until December 29, 1986, by a series of emergency regulations; a Secretarial Amendment superseding Amendment 1 became effective December 30, 1986 (published January 14, 1987; 52 FR 1462); Amendment 2 became effective July 22, 1988 (published June 23, 1988; 53 FR 23634).

Amendment 3 and proposed regulations for its implementation were initially submitted by the Council to the Secretary for review on April 7, 1989. Upon review of the Council's proposed regulations by NOAA General Counsel and NMFS Northeast Region Enforcement, it was determined that strict measures would be necessary for

effective implementation of Amendment 3. Under authority of section 304(a)(1)(D)(i) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended, 16 U.S.C. 1854(a)(1)(D)(i), the proposed regulations submitted by the Council were changed to explain more fully the scope of Amendment 3 and the enforcement measures necessary for its implementation; a proposed rule was published on May 19, 1989 (54 FR 21640). Because the changes made in the first submission of Amendment 3 broadly applied offloading restrictions to all sea scallop permit holders, the Council voted on May 24, 1989, to withdraw Amendment 3 from further Secretarial review. A notice of withdrawal of Amendment 3 was published on June 30, 1989 (54 FR 27656). After further development of the implementing regulations and consultation with NMFS, the Council resubmitted Amendment 3 for Secretarial review on August 18, 1989. The proposed rule for Amendment 3 was published on October 2, 1989 (54 FR 40463) and public comments were invited until November 13, 1989.

The principal objective of the FMP is to maximize, over time, the joint social and economic benefits from the sea scallop resource. Sub-objectives to achieve this goal are: (1) Restoration of the adult stock abundance and age distribution in order to reduce the year-to-year fluctuations in stock abundance caused by variation in recruitment; and (2) enhancement of yield per recruit for each stock.

The Council believes that it is necessary to take steps to improve the level of compliance with the meat count/shell height standards, in order to achieve the biological and conservation objectives of the FMP. The purpose of Amendment 3 is to improve compliance by establishing offloading periods during which scallop vessels and sea scallops can legally be offloaded, and to enhance the efficiency and effectiveness of NMFS enforcement efforts in the Atlantic sea scallop fishery.

Amendment 3 requires: (1) All sea scallop dredge vessels and all vessels landing more than 5 bushels (176.2 L) of sea scallops in the shell to offload all fish within a 12-hour offloading period specified for the state of offloading; and (2) all other vessels landing more than 40 pounds (18.1 kg) of shucked sea scallops to offload all sea scallops within the applicable specified offloading period. Offloading outside an applicable offloading period constitutes a separate violation of the regulations, regardless of the meat count/shell height measurements of the scallops being offloaded. The proposed 12-hour offloading periods are as follows:

State of offloading	Period
ME, NH, NC, SC, GA & FL.	7 a.m. to 7 p.m.
MA, RI, & CT	5 a.m. to 5 p.m.
NY, NJ, DE, MD, VA & PA.	6 a.m. to 6 p.m.

The Amendment also includes a mechanism for changing the timing of the 12-hour offloading periods when it is determined to be necessary and appropriate, and after public comment.

If any catch subject to the offloading period is observed or identified on a vessel by an authorized officer at the close of an offloading period, and is not present on that vessel at any time prior to the next authorized offloading period, there is a presumption that such catch was unlawfully offloaded.

Amendment 3 is expected to have two results of direct benefit to the biological status of the stock: (1) The number of sea scallops surviving to sexual maturity should increase as the harvest of illegal scallops decreases, and (2) average yield per recruit should increase as the harvest of small scallops decreases.

Further background information and the rationale for this rule were given in the preamble of the proposed rule and are not repeated here.

Comments and Responses

Written comments were submitted by the Harbor Development Commission of New Bedford, Massachusetts, two New Bedford commercial fisheries organizations, a New Bedford fuel and marine supplier, a marine insurance claims manager, and from the Port of New Bedford. Additionally, a petition opposing Amendment 3 was submitted; this petition contained 167 signatures, primarily from New Bedford/Fairhaven, Massachusetts. The comments were as follows:

Comment: All of the commenters expressed concern over congestion problems this Amendment may create in the port of New Bedford, Massachusetts. One of the commenters suggested that increased congestion would create a safety problem in this port.

Response: This issue was considered by the Council in the Amendment. The Council concluded that, based on historical landings and on the number of available offloading facilities in New Bedford, the probability that congestion will occur as a result of the Amendment is low. The Council believes that industry practices can be adjusted to the offloading schedule without significant adverse impacts and without increased safety risks.

Comment: One commercial fishing organization commented that requiring offloading periods for just the scallop fishery was discriminatory under the national standards.

Response: National standard 4 states that conservation and management measures should not discriminate between residents of different states. This Amendment applies to all states where Atlantic sea scallops are offloaded and, as such, complies with national standard 4.

Comment: The same commercial fishing organization suggested that this Amendment was a restraint of trade.

Response: This Amendment does not in any way restrict the sale of a vessel's catch. This Amendment does require those vessels that are presently offloading during the night to adjust their practices. Because a typical sea scallop trip out of the port of New Bedford is 10–12 days long, the Council does not believe that this is likely to have a significant impact on product quality, the availability of markets, or prices.

Changes from the Proposed Rule

The word "dredge" was inadvertently omitted from the definition of "Sea scallop dredge vessel" in the regulatory text published in the proposed rule for Amendment 3 (54 FR 40463); the preamble of the proposed rule correctly described those vessels affected. No other changes have been made.

Classification

The Director, Northeast Region, NMFS, has determined that the Amendment is necessary for the conservation and management of the Atlantic sea scallop fishery and that it is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law.

The Council prepared within Amendment 3 an environmental assessment (EA). Based on this EA, the Assistant Administrator for Fisheries, NOAA, found that there will be no significant impact on the environment as a result of this rule. A copy of the EA and finding of no significant impacts may be obtained from the Council (see ADDRESSES).

The Under Secretary for Oceans and Atmosphere, NOAA, has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291 (E.O. 12291). This rule is not likely to 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 the ability of U.S.-based enterprises to compete with foreign-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Florida. Georgia does not have an approved coastal zone management program. This determination has been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. New Hampshire, Massachusetts, Connecticut, New York, Delaware, North Carolina, and South Carolina have agreed with the Council's determination. None of the other states commented within the statutory time period, and therefore, consistency is automatically implied. All measures approved were included in this amendment, therefore, this determination remains applicable.

This rule does not contain policies with federalism implications sufficient to warrant a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: December 29, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries.

For the reasons set out in the preamble, 50 CFR part 650 is amended as follows:

PART 650—ATLANTIC SEA SCALLOP FISHERY

1. The authority citation for 50 CFR part 650 continues to read as follows:

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

2. In § 650.2, the definition of "*Non-conforming Atlantic sea scallops*" is revised and defintions of "*Offload*" and "*Sea scallop dredge vessel*" are added in alphabetical order to read as follows:

§ 650.2 Definitions.

* * * * *

Non-conforming Atlantic sea scallops means scallops that do not meet the standards specified in § 650.20 of these regulations, unless such scallops have been certified (through a procedure specified by the Regional Director) to have been taken under a management system that the Regional Director finds to be substantially consistent with the conservation objectives of the FMP and these regulations, and also means any scallops that are offloaded or received from a vessel by any person at any time other than during the offloading periods as specified in §§ 650.21 (c) and (d) of these regulations.

Offload means to enter port and remove (i.e., to pass over the rail or otherwise take away) fish from any vessel.

* * * * *

Sea scallop dredge vessel means any fishing vessel that is equipped for fishing using dredge gear in the Atlantic sea scallop fishery. For the purposes of this rule, dredge gear is that gear that consists of a mouth frame attached to a holding bag constructed of steel rings, or any other modification to this design that can be used in the harvest of Atlantic sea scallops.

* * * * *

3. In § 650.7, paragraphs (b) through (f) are redesignated (d) through (h), and new paragraphs (b) and (c) are added to read as follows:

§ 650.7 Prohibitions.

* * * * *

(b) Offload any fish from a sea scallop dredge vessel, or from a vessel landing more than 5 bushels (176.2 L) of Atlantic sea scallops in the shell, at any time other than during the applicable time specified in § 650.2(c).

(c) Offload Atlantic sea scallops from any vessel landing more than 40 pounds (18.1 kg) of shucked Atlantic sea scallops at any time other than the times specified in § 650.21(c).

* * * * *

4. In § 650.21, the section heading is revised and new paragraphs (c), (d) and (e) are added to read as follows:

§ 650.21 Compliance and sampling.

* * * * *

(c) All sea scallop dredge vessels and all vessels landing more than 5 bushels (176.2 L) of Atlantic sea scallops in the shell must offload all fish each day within the applicable 12-hour offloading period as specified below:

State of Offloading	Period
ME, NH, NC, SC, GA, & FL	7 a.m. to 7 p.m.
MA, RI & CT	5 a.m. to 5 p.m.
NY, NJ, DE, MD, VA, & PA	6 a.m. to 6 p.m.

(d) All other vessels not covered by paragraph (c) of this section, landing more than 40 pounds (18.1 kg) of shucked Atlantic sea scallops, must offload the scallops within the applicable offloading period specified in paragraph (c) of this section.

(e) *Presumption.* Fish not offloaded from vessels subject to the provisions of paragraph (c), and shucked Atlantic sea scallops not offloaded from vessels subject to the provisions of paragraph (d), of this section during the offloading period must remain on the vessel until the following offloading period. There shall be a presumption of unlawful offloading for any such catch that is observed or identified on such a vessel by an authorized officer at the close of the previous offloading period, if such catch is not found on that vessel at the beginning of the following offloading period.

5. A new § 650.25 is added to read as follows:

§ 650.25 Modification of offloading period.

(a) The daily timing of the 12-hour offloading period in any state(s) may be adjusted by the Regional Director, if the Regional Director determines, and recommends to the Council, that such an adjustment is necessary and appropriate after reviewing any changes in the resource, fishery, or industry in accordance with § 650.22(a). The Council may, at any time, request that a change in an offloading period be evaluated by the Regional Director within 60 days. The Regional Director will solicit and consider any recommendation of the Council regarding adjustment of the timing of an offloading period, and, with the Council, will provide for public notice and comment, and hold a public hearing on any recommended change in conjunction with the Council meeting at which the recommended change is discussed. The Regional Director will publish a notice of the public hearing and the recommended change in the **Federal Register**.

(b) After consideration of the full record; including comments at the public hearing, written comments, and comments from the Council; the Regional Director may accept, modify, or reject the recommended adjustment

for the daily timing of the 12-hour offloading period. Notice of the Regional Director's decision, and the date such decision will take effect, will:

(1) Be published in the Federal Register; and

(2) Be mailed to each holder of a permit issued under § 650.4 of this chapter.

[FR Doc. 90-276 Filed 1-2-90; 3:22 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 4
Friday, January 5, 1990

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

Agriculture Marketing Service

7 CFR Part 959

[Docket No. FV-90-107]

Onions Grown in South Texas; Proposed Amendment to Continuing Handling Regulation To Authorize Two New Containers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize the use of 20 and 25-pound cartons for shipping South Texas onions to fresh markets under the container regulations of Marketing Order 959. Allowing handlers to ship onions in such containers should improve the position of the South Texas onion industry in the marketplace.

DATE: Comments must be received by February 5, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 447-5331.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR part 959), both as amended, regulating the handling of onions grown in South Texas. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

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

There are approximately 40 handlers of South Texas onions subject to regulation under the marketing order, and approximately 80 producers in the production area. The Small Business Administration (13 CFR 121.1) has defined small agricultural producers as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less that $3,500,000. The majority of handlers and producers of South Texas onions may be classified as small entities.

As of November 16, 1989, estimated South Texas onion planted acreage was 13,500 acres compared to 14,400 acres in 1988. Total shipments of South Texas onions for the 1989-90 season are projected at 6,075,000 50-pound bags. This represents a 5 percent increase over the estimated 5,760,000 bags shipped in the 1988-89 season. The majority of the crop was shipped to the fresh markets, with only a small volume (less that 10 percent) utilized by processors.

Handling requirements for South Texas onions specified in § 959.322 (54 FR 8519, March 1, 1989). The current grade requirement specifies not more than 20 percent defects of U.S. No. 1 grade. In addition, onions are required to be packed in accordance with five size categories: Small, 1 to 2¼ inches; Repacker, 1¾ to 3 inches; medium 2 to 3½ inches; Jumbo or Large, 3 inches or larger; and Extra Large, 3¾ inches in diameter or larger. Containers authorized for use are 25- and 50-pound bags, 40- and 50-pound cartons, and 2-, 3-, 5-, and 10-pound consumer bags. These requirements are effective from March 1 through May 20 each year.

This proposed rule would add two smaller cartons to the list of containers presently authorized under the handling regulation. This change was unanimously recommended by the South Texas Onion Committee (committee), the agency responsible for local administration of the marketing order, at its October 31, 1989, meeting.

Handlers of South Texas onions have been using 20- and 25-pound cartons on an experimental basis for fresh market onion shipments, in accordance with § 959.322(f)(3) of the handling regulation. During the past two years, the committee authorized the use of approximately 800 cartons for such purpose. The 20-pound carton has approximate dimensions of 22¼ inches (length) × 11 inches (width) × 4½ inches (height). The 25-pound carton has approximate dimensions of 19⅛ inches (length) × 11½ inches (width) × 7 inches (height). These cartons have been well received by the onion trade, and the committee believes that authorizing their unlimited use would have a positive impact on the industry.

In accordance with § 959.322(g), handlers wishing to use the 20- and 25-pound cartons were required to obtain experimental container exemptions by applying for and receiving a Certificate of Privilege from the committee. Handlers also were required to provide reports as requested by the committee. The committee believes that permitting handlers to use the smaller cartons and eliminating the need to apply for experimental container exemptions and submit related reports would encourage the industry to increase onion shipments. By providing additional flexibility in marketing onions, this

action is expected to be beneficial to producers and handlers.

This action would reduce the information collection and recordkeeping requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). These requirements have been previously approved by the Office of Management and Budget (OMB) and assigned (OMB) No. 0581-0074.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, Onions, South Texas.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 959 be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

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

2. Section 959.322 is amended by redesignating paragraphs (c)(4), (c)(5) and (c)(6) as (c)(6), (c)(7) and (c)(8) respectively, and adding new paragraphs (c)(4) and (c)(5) to read as follows:

§ 959.322 Handling regulation.

* * * * *

(c) * * *

(4) 20-pound cartons with approximate dimensions of 22¼ inches (length) × 11 inches (width) × 4½ inches (height); or

(5) 25-pound cartons with approximate dimensions of 19⅛ inches (length) × 11½ inches (width) × 7 inches (height); or

* * * * *

Dated: January 2, 1990.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 90-278 Filed 1-4-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212, 214 and 238

[INS No. 1232-89]

RIN No. 1115-AB45

Documentary Requirements; Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Nonimmigrant Classes; and Contracts With Transportation Lines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule with request for comments.

SUMMARY: This rule eliminates direct transits without visas by removing 8 CFR 212.19(f). Aliens being transported to immediate and continuous transit through the United States must be in possession of the appropriate visa prior to application for admission. The current regulations provide that an alien may be transported in immediate and continuous transit through the United States in accordance with the provisions of section 238(d) of the Act. This rule eliminates a loophole that facilitated aliens illegally entering the United States.

DATES: Comments must be received no later than February 5, 1990.

ADDRESS: Submit written comments, in triplicate, to Director, Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street, NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Gene Paz, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., Room 7123, Washington, DC 20536, Telephone: (202) 633-4033.

SUPPLEMENTARY INFORMATION: The regulations at 8 CFR 212.1(f) provide that an alien may be transported in immediate and continuous transit through the United States without first being required to obtain a visa, as long as the transportation line and the Service have entered into an agreement pursuant to section 238(d) of the Act. Such agreements are discretionary to carry these persons, commonly referred to as transits without visas (TWOV), under the authority of the Attorney General.

The original purpose for the enactment of section 238(d) of the Act was to facilitate the passages of World War II refugees being resettled in other countries. During that era transportation routes were not as expansive as the present, thereby causing aliens without visas to be routed through the United States.

Since that time, TWOV agreements have evolved as an accommodation for the transportation line and convenience for the travelling public; in FY 88, over 137,000 aliens entered the United States by this method. While this represents only .3 percent of INS airport inspections, abuse of the system by aliens and the resultant administrative burdens imposed on the participating carriers and INS give numerous reasons for eliminating this category of entry from 8 CFR 212.1(f) and 8 CFR 214.2(c).

First, despite the establishment of a separate data base, uniform Transit Without Visa (TWOV) stamps, extensive record keeping devices to maintain tight control of aliens in TWOV status, and stringent requirements imposed on carriers, the Service has found that the system has not been effective in ensuring that the TWOV alien departs the United States. This has created a loophole that facilitates an alien's successful illegal entry to the U.S. In other instances, the untimely submission of documents to INS results in the generation of notices to carriers for aliens who have actually departed.

Second, once a TWOV alien absconds from transportation line custody the Service spends an inordinate amount of time and resources resolving these cases, both in the process of obtaining liquidated damages from carriers and in attempting to locate and remove the violators.

Third, the nature of air travel has changed significantly in four decades; expansion of route systems and increases in aircraft range now allow for direct connections among most countries.

Fourth, the etablishment of the Visa Waiver Pilot Program has enabled previous TWOV traffic from eight countries to travel without a visa under separate regulation. The number of TWOV passengers from those eight countries represent one-third of the total TWOV traffic. The number of transoceanic passengers covered by this provision represents 53 percent of alien air traffic to the U.S.

For similar reasons, Canada has now eliminated its TWOV category. Because the TWOV privilege had permitted male fide entrants to avoid the visa requirement, aliens in transit through Canada are now required to be in possession of visas. Under the proposed rule, aliens will be able to transit the U.S. by the same means.

As a preliminary step, the Air Transport Association (ATA) and

International Air Transport Association (IATA) were contacted in January 1989 about the feasibility of eliminating the category. After canvassing major air carriers they advised the Service that opinion was divided but the majority of air carriers found TWOV procedures extremely burdensome and several major lines recommended doing away with the program.

Sections 212.1(f) (1) and (2) are removed as the Service has determined that the procedures for initial and follow-up processing of TWOVs are unduly burdensome on the Service, transportation lines and the alien and are not necessary because aliens may obtain transit visas if they wish to transit the United States.

Sections 212.1(f) (3) and (4) are redesignated as (f) (1) and (2).

Section 214.2(c)(1) is removed as it pertains to TWOVs.

Sections 214.2(c) (2) and (3) are redesignated (c) (1) and (2).

Section 238.3(a) is removed and section 238.3(b) is redesignated 3(a).

In order to effect an orderly transition, the TWOV category will phase out over a period of six months after publication of the final rule at which time the TWOV category will be eliminated from the above mentioned sections of Title 8, Code of Federal Regulations.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

List of Subjects

8 CFR Part 212

Administrative practice and procedures, Nonimmigrants, Waivers, Parole.

8 CFR Part 214

Administrative practice and procedures, Aliens, Passports and visas.

8 CFR Part 238

Aliens, Security measures, Transportation.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation of part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1228, 1252; 8 CFR Part 2.

§ 212.1 [Amended]

2. Section 212.1 is amended by removing paragraphs (f)(1) and (f)(2) and redesignating paragraphs (f)(3) and (f)(4) as (f)(1) and (f)(2) respectively.

PART 214—NONIMMIGRANT CLASSES

3. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1103, 1184, 8 CFR part 2.

§ 214.2 [Amended]

4. Section 214.2 is amended by removing paragraph (c)(1) and redesignating paragraphs (c)(2) and (c)(3) as (c)(1) and (c)(2) respectively.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

5. The authority citation of part 238 continues to read as follows:

Authority: 8 U.S.C. 1103, 1228.

§ 238.3 [Amended]

6. Section 238.3 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b) respectively.

Dated: November 28, 1989.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 90-293 Filed 1-4-90; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Services

9 CFR Part 391

[Docket No. 89-023P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to increase fees charged by FSIS to provide overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services to meat and poultry establishments. The fees would primarily reflect the increased costs of providing these services due to the increase in salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970.

DATE: Comments must be received on or before: January 22, 1990.

ADDRESS: Send written comments to the Policy Office, Attention: Linda Carey, FSIS Hearing Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. William L. West, (202) 447-3367. (See also "Comments" under SUPPLEMENTARY INFORMATION.)

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." It will not result in an annual effect on the economy of $100 million or more; on a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; on significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The fee increases only reflect an increase in costs to establishments that elect to utilize certain inspection services.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601) because the fees provided for in this document merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent to the Policy Office and should

refer to the docket number located in the heading of this document. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act must make such request to Mr. West so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this action will be made available for public inspection in the Policy Office between 9 a.m. and 4 p.m., Monday through Friday.

Background

Each year the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by FSIS are reviewed; and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services.[1] The analysis related to fees charged in connection with overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services. The fees to be charged for these services, have been determined by an analysis of data on the current cost of these services, by anticipated costs associated with changes in operations of the program, by increases in those costs due to an increase in the salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970, and by other increases affecting Federal employees, such as costs for travel and benefits.

Based on the Agency's analysis of the increased costs in providing these services to be incurred as a result of the pay raise of 3.6 percent for Federal employees effective January 1990, of increased costs of the Federal Employees Retirement System in 1990, and of increased health insurance and travel costs, FSIS proposes to increase the fees relating to such services.

Mandatory inspection by Federal inspectors of meat and poultry slaughtered and/or processed at official establishments is provided for under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products; and the ordinary costs of providing it are borne by the U.S. Government. However, costs for these inspection services performed on holidays or on an overtime basis may be incurred to accommodate the business needs of particular establishments. Any or all of these costs which are not a part of the mandatory inspection service are recoverable by the Government.

Section 307.5 (9 CFR 307.5) of the meat inspection regulations provides that FSIS shall be reimbursed for the cost of meat inspection on holidays or on an overtime basis at the rate specified in § 391.3, currently $25.88 per inspector hour. Similarly, § 381.38 (9 CFR 381.38) of the poultry products inspection regulations provides that FSIS shall be reimbursed for the cost of poultry inspection on holidays or on an overtime basis at the rate specified in section 391.3, currently $25.88 per inspector hour. These fees would be increased to $27.24 per inspector hour.

FSIS also provides a range of voluntary inspection services (9 CFR 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5); the costs of which are totally recoverable by the Government. These services, provided under subchapter B—Voluntary Inspection and Certification Service, are povided under the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621 *et seq.*) to assist in the orderly marketing of various animal products and by products not subject to the Federal Meat Inspection Act of the Poultry Products Inspection Act.

The basic hourly rate for providing such certification and inspection service is currently $23.60 per inspector hour as specified in § 391.2. The overtime and holiday hourly rate is currently $25.88 as specified in § 391.3. The rate for laboratory services is currently $42.88 per hour as specified in § 391.4. The hourly rates for these services would be increased to $26.68, $27.24, and $46.60, respectively.

List of Subjects in 9 CFR Part 391

Meat inspection; Poultry products inspection; Fees and charges.

Accordingly, the Federal meat and poultry products inspection regulations would be amended as follows:

PART 391—[Amended]

1. The authority citation for part 391 would continue to read as follows:

Authority: 21 U.S.C. 601 *et seq.*, 460 *et seq.*; 7 CFR 2.17 (g) and (i), 2.55; 7 U.S.C. 394, 1622, and 1624.

2. Sections 391.2, 391.3, and 391.4 would be revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $26.68 per hour, per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5, and 381.38 shall be $27.24 per hour, per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $46.60 per hour, per program employee.

Done at Washington, DC, on: December 29, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 90-275 Filed 1-4-90; 8:45 am]

BILLING CODE 3410-DM-M

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[1] The cost analysis is on file with the FSIS Hearing Clerk. Copies may be requested from that office.

FARM CREDIT ADMINISTRATION

12 CFR Part 602

RIN 3052-AA05

Releasing Information; Fees Imposed on Information Requests

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA) issues proposed regulations that would amend 12 CFR Part 602, relating to the availability of records of the FCA. The proposed regulations implement statutory changes made by the Freedom of Information Reform Act of 1986, Pub. L. 99-570, by amending the fee structures and related provisions governing fee charges for document requests. The proposed regulations also implement the provisions of Executive order 12600 by providing predisclosure notification procedures for confidential commercial or financial information.

DATE: Written comments are due on or before February 5, 1990.

ADDRESS: Submit any comments (in triplicate) in writing to Anne E. Dewey, General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination to interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Ronald H. Erickson, Freedom of Information Officer, Office of Congressional and Public Affairs,

Farm Credit Administration, McLean, Virginia 22101-5090, (703) 883-4113, or

Gary L. Norton, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On October 27, 1986, the President signed into law the Freedom of Information Reform Act of 1986, Pub. L. 99-570 (1986 Act). The 1986 Act amended the Freedom of Information Act (FOIA) (5 U.S.C. 552) by establishing a new fee structure governing the fees that can be imposed for providing information and requiring the Office of Management and Budget (OMB) to promulgate guidelines regarding such fee structure. On March 27, 1987, the OMB published the Uniform Freedom of Information Act Fee Schedule and Guidelines 52 FR 10012. These proposed regulations are adopted in accordance with the OMB guidelines. Subject to certain limitations, the new fee structure contained in these proposed regulations enables the FCA to recover the actual costs incurred in releasing information. This fee structure includes new limitations on the amount of fees that can be imposed on certain persons or entities requesting information, depending on how the person or entity is classified under the 1986 Act. In addition, the proposed regulations authorize the FCA to impose fees for reviewing documents for persons or entities requesting information for commercial purposes. In accordance with the 1986 Act, and the OMB guidelines, the proposed regulations revise the criteria used in determining whether to waive or reduce the fees imposed under the FOIA.

The 1986 Act also amended the scope of FOIA exemption (b)(7) which relates to records compiled for law enforcement purposes. The proposed regulations implement that amendment by revising the exemption contained in § 602.250(a)(7).

On June 23, 1987, the President issued Executive order 12600, Predisclosure Notification Procedure for Confidential Commercial Information (Order). The Order requires each agency to adopt procedures to notify parties that have submitted confidential commercial or financial information to the agency when those records are requested by other parties under the FOIA. Following the issuance of the Order, the FCA implemented procedures to ensure that when the FCA receives a FOIA request for records that might be exempt from disclosure under exemption (b)(4), the person that submitted such records is given an opportunity to comment on the possible release of such records. The proposed regulations would formalize those procedures and fully implement the Order by establishing regulatory provisions for the notification of submitters of records that contain confidential commercial information when those records are requested under the FOIA. The notification is required if the FCA determines, after reviewing the request, the responsive records, and any appeal by the requester, that the FCA may be required to disclose the records.

The proposed regulations also make technical changes which reflect a reorganization of the FCA which redesignated the Office of Administration as the Office of Resources Management.

List of Subjects in 12 CFR Part 602

Courts, Freedom of information, Government employees.

For the reasons stated in the preamble, part 602 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 602—RELEASING INFORMATION

1. The authority citation for part 602 is revised to read as follows and all other authority citations throughout part 602 are removed:

Authority: Secs. 5.9, 5.17; 12 U.S.C. 2243, 2252; 5 U.S.C. 552, E.O. 12600, 52 FR 23781, 3 CFR 1987, p. 235.

Subpart B—Availability of Records of the Farm Credit Administration

2. Section 602.250 is amended by revising paragraph (a)(7) to read as follows:

§ 602.250 Official records of the Farm Credit Administration.

(a) * * *

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

* * * * *

§ 602.260 [Amended]

3. Section 602.260 is amended by removing the words ", other than records identified in § 602.265(a) of this part which are available in a public reference facility in the offices of the Farm Credit Administration," from the first sentence.

§ 602.261 [Amended]

4. Section 602.261 is amended by removing the words "Office of Administration" and adding in their place, "Office of Resources Management" each place they appear in paragraphs (b), (c) and (d).

5. Section 602.262 is added to read as follows:

§ 602.262 Business information.

(a) Business information provided to the Farm Credit Administration by a business submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section. The requirements of this section shall not apply if:

(1) The Farm Credit Administration determines that the information should not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

(b) For the purpose of this section, the following definitions shall apply.

(1) "Business information" means trade secrets or other commercial or financial information.

(2) "Business submitter" means any person or entity which provides business information to the government.

(3) "Freedom of Information Officer" means the Freedom of Information Officer, Office of Congressional and Public Affairs.

(4) "Requester" means the person or entity making the Freedom of Information Act request.

(c)(1) The Freedom of Information Officer shall provide a business submitter with prompt written notice of a request encompassing its business information whenever required under paragraph (d) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the Freedom of Information Officer provides a business submitter with the notice set forth in paragraph (c)(1) of this section, the Freedom of Information Officer shall notify the requester that the request includes information that may arguably be exempt from disclosure under 5 U.S.C. 552(b)(4) and that the person or entity who submitted the information to the Farm Credit Administration has been given the opportunity to comment on the proposed disclosure of information.

(d)(1) For business information submitted to the Farm Credit Administration prior to January 1, 1988, the Farm Credit Administration shall provide a business submitter with notice of a request whenever:

(i) The information is less than 10 years old and the information is subject to prior express commitment of confidentiality given by the Farm Credit Administration to the business submitter; or

(ii) The Farm Credit Administration has reason to believe that disclosure of the information may result in commercial or financial injury to the business submitter.

(2) For business information submitter to the Farm Credit Administration on or after January 1, 1988, the Farm Credit Administration shall provide a business submitter with notice of a request whenever:

(i) The business submitter has in good faith designated the information as commercially or financially sensitive information; or

(ii) The Farm Credit Administration has reason to believe that the disclosure of the information may result in commercial or financial injury to the business submitter.

(3) Notice of a request for business information falling within paragraph (d)(2)(i) of this section shall be required for a period of not more than 10 years after the date of submission unless the business submitter requests and provides acceptable justification for a specific notice of greater duration.

(4) Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business submitter that the information in question is in fact a trade secret or commercial or financial information that is privileged or confidential.

(e) Through the notice described in paragraph (c) of this section, the Farm Credit Administration shall afford a business submitter a reasonable period within which it can provide the Farm Credit Administration with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of the exemption provided by 5 U.S.C. 552(b)(4), shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(f)(1) Farm Credit Administration shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclosure business information. Whenever the Farm Credit Administration decides to disclose business information over the objection of a business submitter, the Freedom of Information Officer shall forward to the business submitter a written notice which shall include:

(i) A statement of the reasons for which the business submitter's disclosure objections were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A specified disclosure date.

(2) The notice of intent to disclose required by this paragraph shall be sent, as circumstances permit, within a reasonable number of days prior to the specified date upon which disclosure is intended.

(3) The Freedom of Information Officer shall send a copy of such disclosure notice to the requester at the same time the notice is sent to the business submitter.

(g) Whenever a requester brings suit seeking to compel disclosure of business information covered by paragraph (d) of this section, the Farm Credit Administration shall promptly notify the business submitter of such action.

Subpart D—[Redesignated from Subpart C]

6. Subpart C, consisting of §§ 602.280 through 602.289, is redesignated as new Subpart D.

§ 602.265 [Removed]

7. Section 602.265 is removed.

8. A new subpart C, consisting of §§ 602.265 through 602.272, is added to read as follows:

Subpart C—Fees for Provisions of Information

Sec.
602.265 Definitions.
602.266 Categories of requesters—fees.
602.267 Fees to be charged.
602.268 Waiver or reduction of fees.
602.269 Advance payments—notice.
602.270 Interest.
602.271 Charges for unsuccessful searches or reviews
602.272 Aggregating requests.

Subpart C—Fees for Provisions of Information

§ 602.265 Definitions.

For the purpose of this subpart, the following definitions shall apply:

(a) The term "commercial use request" means a request for information that is from or on behalf of an individual or entity seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or on whose behalf the request is being made. To determine whether a request is properly classified as a commercial use request, the Farm Credit Administration shall determine the purpose for which the documents requested will be used. If the Farm Credit Administration has reasonable cause to doubt the purpose, specified in the request, for which a requester will use the records sought, or where the purpose is not clear from the request itself, the Farm Credit Administration shall seek additional clarification before assigning the request to a specified category.

(b) The term "direct costs" means those expenditures the Farm Credit Administration actually incurs in searching for and reproducing documents to respond to a request for information. In the case of a commercial use request, the term also means those expenditures the Farm Credit Administration actually incurs in reviewing documents to respond to the request. The direct cost shall include the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating reproduction equipment. Not included in

direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(c) The term "educational institution" means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education that operates a program or programs of scholarly research.

(d) The term "non-commercial scientific institution" refers to an institution that is not operated on a commercial, trade or profit basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(e) The term "representative of the news media" means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when the periodicals can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. The examples are not intended to be all-inclusive. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunication services), such alternative media would be included in this category. "Freelance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization even though they are not actually employed by the organization. A publication contract would be the clearest proof that a journalist is working for a news organization, but the Farm Credit Administration may look to a requester's past publication record to determine whether a journalist is working for a news organization.

(f) The terms"reproduce" and "reproduction" mean the process of making a copy of a document necessary to respond to a request for information. Such copies take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided shall be in a form that is reasonably usable by requesters.

(g) The term "review" means the process of examining documents located in response to a request for information to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure (e.g., doing all that is necessary to prepare the documents for release). The term "review" does not include the time spent resolving general legal or policy issues regarding the application of exemptions. The Farm Credit Administration shall only charge fees for reviewing documents in response to a commercial use request.

(h) The term "search" includes all time spent looking for material that is responsive to a request for information, including page-by-page or line-by-line identification of material within documents. Searching for material shall be done in the most efficient and least expensive manner so as to minimize the costs of the Farm Credit Administration and the requester. For example, a line-by-line search for responsive material should not be performed when merely reproducing an entire document would be the less expensive and the faster method of complying with a request for information. Searches may be done manually or by computer using existing programming. A "search" for material that is responsive to a request should be distinguished from a "review" of material to determine whether the material is exempt from disclosure.

§ 602.266 Categories of requesters—fees.

There are four categories of requesters: commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters.

(a) The Farm Credit Administration shall charge fees for records requested by or on behalf of educational institutions and non-commercial scientific institutions in an amount which equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a non-commercial scientific institution).

(b) The Farm Credit Administration shall charge fees for records requested by representatives of the news media in an amount which equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, the requester must qualify as a representative of the news media and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use.

(c) The Farm Credit Administration shall charge fees for records requested by persons or entities making a commercial use request in an amount that equals the full direct costs for searching for, reviewing for release, and reproducing the records sought. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of documents. In accordance with § 602.271, commercial use requesters may be charged the costs of searching for and reviewing records even if there is ultimately no disclosure of records.

(d) The Farm Credit Administration shall charge fees for records requested by persons or entities that are not classified in any of the categories listed in paragraph (a), (b) or (c) of this section in an amount that equals the full reasonable direct cost of searching for and reproducing records that are responsive to the request, excluding the first 2 hours of search time and the cost of reproducing the first 100 pages of records. In accordance with § 602.271 requesters in this category may be charged the cost of searching for records even if there is ultimately no disclosure of records, excluding the first 2 hours of search time.

(e) For purposes of the exceptions contained in this section on assessment of fees, the word "pages" refers to paper copies of "8½ x 11" or "11 x 14." Thus, requesters are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or a computer disk containing the equivalent of 100 pages of computer printout meet the terms of the exception.

(f) For purposes of paragraph (d) of this section, the term "search time" has as its basis, manual search. To apply this term to searches made by computer, the Farm Credit Administration will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of 2 hours of the salary of the person

performing the search, i.e., the operator, the Farm Credit Administration will begin assessing charges for computer search.

§ 602.267 Fees to be charged.

(a) Generally, the fees charged for requests for records shall cover the full allowable direct costs of searching for, reproducing and reviewing documents that are responsive to a request for information.

(b) Manual searches for records will be charged at the salary rate(s) (i.e., basic pay plus 16 percent) of the employee(s) making the search.

(c) Computer searches for records will be charged at the actual direct cost of providing the service. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for records and the operator/programmer salary apportionable to the search. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the prevailing levels of costs to the Farm Credit Administration for the type and amount of such supplies of materials that are used. Nothing in this paragraph shall be construed to entitle any person or entity, as of right, to any services in connection with computerized records, other than services to which such person or entity may be entitled under the provisions of this subpart of part 602.

(d) Only requesters who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review; i.e., the review undertaken the first time the Farm Credit Administration analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review is assessable.

(e) Records will be reproduced at a rate of $.15 per page. For copies prepared by computer, such as tapes or printouts, the requester shall be charged the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction, the actual direct costs of producing the document(s) shall be charged.

(f) The Farm Credit Administration will recover the full costs of providing services such as those enumerated below when it elects to provide them: (1) Certifying that records are true copies. (2) Sending records by special methods such as express mail.

(g) Remittances shall be in the form either of personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Farm Credit Administration.

(h) A receipt for fees paid will be given upon request.

§ 602.268 Waiver or reduction of fees.

(a) The Farm Credit Administration may grant a waiver or reduction of fees if the Farm Credit Administration determines that the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and the disclosure of the information is not primarily in the commercial interest of the requester.

(b) The Farm Credit Administration will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. The elements to be considered in determining the "cost of collecting a fee" are the administrative costs of receiving and recording a requester's remittance, and processing the fee.

§ 602.269 Advance payments—notice.

(a) Where it is anticipated that the fees chargeable will amount to more than $25.00 and the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof that can be readily estimated.

(b) If the anticipated fees exceed $250.00 and if the requester has a history of promptly paying fees charged in connection with information requests, the Farm Credit Administration may obtain satisfactory assurances that the requester will fully pay the fees anticipated.

(c) If the anticipated fees exceed $250.00 and if the requester has no history of paying fees charged in connection with information requests, the Farm Credit Administration may require an advance payment of fees in an amount up to the full amount anticipated.

(d) If the requester has previously failed to pay a fee charged within 30 days of the date of a billing for fees charged in connection with information requests, the Farm Credit Administration may require the requester to pay the fees owed, plus interest, or demonstrate that the full amount owed has been paid, and require the requester to make an advance payment of the full amount of the fees anticipated before processing a new request or a pending request from that requester.

(e) The notice of the amount of an anticipated fee or a request for an advance deposit shall include an offer to the requester to confer with identified Farm Credit Administration personnel to attempt to reformulate the request in a manner which will meet the needs of the requester at a lower cost.

§ 602.270 Interest.

The Farm Credit Administration may begin charging interest on unpaid fees, starting on the 31st day following the day on which the bill for such fees was sent. Interest will not accrue if payment of the fees has been received by the Farm Credit Administration, even if said payment has not been processed. Interest will accrue at the rate prescribed in secton 3717 of title 31, United States Code, and will accrue from the day on which the bill for such fees was sent.

§ 602.271 Charges for unsuccessful searches or reviews.

The Farm Credit Administration may assess charges for time spent searching for records on behalf of requesters in the categories provided for in § 602.266(c), and (d), even if there are no records that are responsive to the request or there is ultimately no disclosure of records. The Farm Credit Administration may assess charges for time spent reviewing records for requesters in the category provided for in § 602.266(c) even if the records located are determined to be exempt from disclosure.

§ 602.272 Aggregating requests.

A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Farm Credit Administration reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Farm Credit Administration may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

Dated: January 2, 1990.

Jeffrey P. Katz,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 90-291 Filed 1-4-90; 8:45 am]

BILLING CODE 6705-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 522 and 552

[GSAR Notice No. 5-129]

General Services Administration Acquisition Regulation; Price Adjustment Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on a proposed change to the General Services Administration Regulation (GSAR) that would revise § 522.1006 to prescribe a price adjustment clause for use in building service contracts that do not exceed $100,000, and § 552.222-43 to provide an price adjustment clause for building service contracts not exceeding $100,000 which may be used as an alternative to the FAR clause at 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple year and Option Contracts).

DATE: Comments are due in writing on or before February 5, 1990.

ADDRESS: Comments should be addressed to Marjorie Ashby, Office of GSA Acquisition policy (VP), 18th and F Streets NW, Room 4026, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Shirley Scott, Office of GSA Acquisition Policy, (202) 566-1224.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB) by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. Pursuant to the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.*, the GSA certifies that the rule will not have a significant impact on a substantial number of small entities. This rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501).

List of Subjects in 48 CFR Parts 522 and 552

Government procurement.

It is proposed that 48 CFR parts 522 and 552 be amended as follows:

1. The authority citation for 48 CFR parts 522 and 552 continues to read as follows:

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

PART 522—[AMENDED]

Subpart 522.10—Service Contract Act of 1965

2. Section 522.1006 is amended by revising paragraph (b) to read as follows:

522.1006 Clauses for contracts over $2,500.

* * * * *

(b) The contracting officer shall insert the clause at FAR 52.222-43 in solicitations and contracts if the contract is expected to be a fixed-price building service contract containing the clause at 52.222-41, Service Contract Act of 1965, as amended, and is a multiple year contract or a contract with options to renew which exceeds $100,000. If the nature of the contract does not warrant the type of cost breakdown anticipated under the clause at FAR 52.222-43 and the contract value does not exceed $100,000, the contracting officer may, in lieu of the clause at FAR 52.222-43, insert a clause substantially the same as the clause at 552.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts.)

* * * * *

PART 552—(AMENDED)

Subpart 552.2—Text of Provisions and Clauses

3. Section 552.222-43 is revised to read as follows:

552.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).

As prescribed in 522.1006(b), insert the following clause:

Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (XXX 1990)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, et seq.), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the current Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price or contract unit price labor rates will be adjusted to reflect the percentage of increase or decrease in applicable minimum hourly wages and fringe benefits to be paid under this contract. In determining the percentage of increase or decrease in labor costs, the Department of Labor wage determination being applied on the anniversary date of a multiple year contract or at the beginning of the renewal option period will be compared with the wage determination or minimum wage applicable to the initial contract year. * ______ percent of the ** ______ price for the option or multiple year period will be adjusted based on the increase or decrease in the minimum hourly wages and fringe benefits to be paid under this contract. The adjusted prices must not exceed the prior contract year price by more than *** ______ percent. If the price after adjustment exceeds the prior contract year price by more than *** ______ percent, the ceiling price (the ** ______ price for the prior contract year increased by *** ______ percent) will be the contract price for the option or multiple year period.

(e) The contract price will be adjusted upward or downward by the contracting officer, using the formula in paragraph (d), to reflect:

(1) A new or revised wage determination applied to this contract as a result of a decision issued under the variance procedures in 29 CFR part 4 or otherwise applied to the contract by operation of law; or

(2) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(f) Any wage adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(g) The Contracting officer shall notify the contractor of the adjusted contract price or contract unit price labor rate and incorporate,

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*Contracting officer insert the percentage of the total option or multiple year price that represents the labor and labor burden cost.

**Contracting officer insert description of the unit price, e.g. monthly, hourly.

***Contracting officer insert a percentage that reflects past increases in wage rates in the locality where service will be performed.

by contract modification, the new wage determination. Price adjustments under paragraph (d) shall be effective on the anniversary date of a multiple year contract or the first day of the option period. Price adjustments under paragraph (e) shall be effective as stated in the contract modification.

(h) The contracting officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the contractor until the expiration of 3 years after final payment under the contract.

(End of Clause)

Dated: December 27, 1989.

Ida M. Ustad,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 90-178 Filed 1-4-90; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-22; Notice 02]

RIN 2127-AD13

Federal Motor Vehicle Safety Standards; Roof Crush Resistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for extension of comment period.

SUMMARY: This notice denies a petition from General Motors Corporation (GM) seeking an extension of the comment period for a notice of proposed rulemaking (NPRM) to amend Standard No. 216, *Roof Crush Protection—Passenger Cars,* to extend its requirements to light trucks. NHTSA is denying the petition because GM failed to show good cause for the extension of the comment period and because the agency has determined that an extension would not be in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, room 5320, NHTSA, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366-4804.

SUPPLEMENTARY INFORMATION: On November 2, 1989 (54 FR 46275), the agency published an NPRM proposing to amend Standard No. 216, to extend its requirements to light trucks. (The term "light trucks," as used in that notice and today's, includes vans and other multipurpose passenger vehicles (MPV's), as well as trucks and buses, with a gross vehicle weight rating of 10,000 pounds or less.) Standard No. 216 is intended to reduce deaths and injuries due to the crushing of the roof into the passenger compartment in rollover crashes. To that end, the standard currently establishes strength requirements for the forward portion of the roof of passenger cars. The roof of a stationary vehicle is subjected to a force of 1½ times the unloaded weight of the vehicle or 5,000 pounds, whichever is less. This force is gradually applied by a rigid test device in a static test. During the test, the device may not depress the roof structure more than five inches.

The NPRM would require light trucks to withstand a force of 1½ times their weight, without the 5,000 pounds limit applicable to passenger cars. The agency believed that the majority of light trucks meet Standard No. 216's roof crush displacement limits when tested at 1½ times the vehicle's unloaded vehicle weight, even though the resulting force may exceed 5,000 pound limit in place for passenger cars. The agency provided a 60 day comment period for the proposal. (The comment closing date for the 60 day period is January 2, 1990.)

GM submitted a petition requesting that the comment period be extended by 90 days (to April 2, 1990) solely on the issue of the agency's tentative decision not to set a 5,000 pound weight limit for light trucks. The petitioner said that it intends to submit comments by January 2 that are based on currently available information. However, GM was concerned about whether its light trucks could meet the proposed requirements when tested without the 5,000 pound limit. GM believed NHTSA should lengthen the comment period to allow the petitioner to test its "prototype" vehicles which incorporate safety features and designs of GM's 1992 model year vehicles. GM said these features include structural modifications made to achieve conformance with new requirements of Standards No. 204 (Steering Control Rearward Displacement) and No. 208 (Occupant Crash Protection) which become effective September 1, 1991. GM said that prototypes now being assembled have already been committed to "predetermined validation schedules * * * which do not permit FMVSS 216 testing." Thus, GM said additional prototype "may have to be ordered for testing to (Standard No. 216)." The petitioner also requested that NHTSA allow manufacturers time to test all their light trucks because "data referred to in the agency's preliminary regulatory evaluation," which indicated widespread voluntary compliance with the proposed requirements, "is not necessarily representative of the current population of light trucks."

The agency notes that under 49 CFR 553.19, the filing of a petition for an extension of time to submit comments "does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petition shows good cause for the extension, and if the extension is consistent with the public interest." What constitutes "good cause" in a particular case depends on a consideration of all relevant facts, including the extent to which the petitioner demonstrates that it will not be able to offer meaningful comments on the proposal without an extension, the reasons for that inability, the extent to which the petitioner demonstrates the need for the additional information in order to complete the rulemaking record, and the extend to which an extension is consistent with the public interest.

Applying these criteria to GM's petition, the agency concludes that the petitioner has not shown good cause for extending the comment period for the NPRM. First, GM did not say it could not provide meaningful comments on the proposal within the 60 day period set by the NPRM. In fact, GM stated it will submit comments by the January 2 closing date. This factor militates against a finding of good cause in this case. Second, the petitioner did not provide an adequate reason why it could not have conducted its desired tests by the January 2 comment closing date. The petitioner refers to "predetermined validation schedules," but does not explain why those schedules could not be revised, or why vehicles other than the prototypes could not be used for Standard No. 216 testing purposes. The fact that the petitioner cannot conduct all of the testing it would like before preparing its comments is not sufficient to warrant a finding of good cause in this case. Third, the information GM wishes to obtain relates to how the proposed rule may affect GM vehicles only. While the agency is interested in the manner in which the proposal would affect every manufacturer, the information sought by the petitioner would probably yield little or no information on issues pertinent to areas of general interest to all manufacturers, such as the practicability of the standard, with which the agency is primarily interested. This factor also militates against a finding of good cause. Finally, the public interest with respect to this proposal is best served by having the agency decide whether to promulgate a final rule concerning roof crush protection in a timely manner without unnecessary additional delays.

Accordingly, NHTSA has concluded that the petitioner has not shown good cause for the extension of the comment period for the NPRM, and the petition is denied.

With respect to the petitioner's claim that the agency's preliminary regulatory evaluation included in its analysis an unrepresentative sample of vehicles, this is the type of comment that GM has the opportunity to make in a docket comment on the rulemaking proposal. The agency will address this concern and the issue of leadtime when it makes its decision whether to issue a final rule.

NHTSA would again like to remind the petitioner and any other interested party that the agency will always consider, to the extent possible, comments filed after the comment closing date. Interested parties may provide the agency with additional comments after the comment period has closed. If these comments are received in time for the agency to consider in its determination of the next step in this rulemaking, NHTSA will consider the comments. If the comments are received too late to be considered in determining the next step in this rulemaking, the comments will be treated as suggestions for future rulemaking in this area. Therefore, this denial of the petition to extend the comment period should not be interpreted as foreclosing any person from providing NHTSA with additional information after the close of the comment period.

Issued on December 29, 1989.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 89-30400 Filed 12-29-89; 3:52 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 91179-9279]

RIN 0648-AC56

Shrimp Fishery of the Gulf of Mexico

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

ACTION: Proposed rule; regulatory amendment.

SUMMARY: NOAA proposes to amend the regulations that implement the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) to modify, temporarily, the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing. This action would enable fishermen to harvest marketable-sized shrimp during specified periods from three small areas that otherwise would be closed.

DATE: Written comments must be received on or before February 5, 1990.

ADDRESSES: Comments should be sent to and copies of the Draft Environmental Assessment/Regulatory Impact Review may be obtained from Michael E. Justen, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3711.

SUPPLEMENTARY INFORMATION: The shrimp fishery is managed under the FMP and its implementing regulations at 50 CFR Part 658, as provided by the Magnuson Fishery Conservation and Management Act (Magnuson Act). Under the FMP, the Director, Southeast Region, NMFS (Regional Director), may modify by no more than ten percent the geographical scope of the Tortugas shrimp sanctuary specified at § 658.22, after (1) Consultation with the Gulf of Mexico Fishery Management Council (Council), (2) consideration of specified criteria, and (3) determination that benefits may be increased or adverse impacts decreased by the modification.

The primary purpose of establishing the sanctuary was to protect small shrimp and allow them to attain a larger, more valuable size prior to harvest. The FMP stipulates that, prior to any modification of the sanctuary, NMFS will monitor and assess the impacts of the closure and advise the Council of its findings. The Council may also consider the advice of its Shrimp Advisory Panel regarding the findings. When the sanctuary was partially opened in 1983/84, NMFS determined that harvestable populations of shrimp occur periodically within a small portion of the sanctuary—a fact strongly supported by public testimony. Fishermen contend that shrimp from within this portion of the sanctuary migrate to untrawlable areas and are unavailable to the fishery. Poor recruitment of shrimp to the Tortugas fishery has resulted in three consecutive years of poor production and economic loss to the adjacent shrimp ports. As identified in the FMP, poor recruitment in the shrimp fishery is more a function of environmental forces than of overfishing. Opening areas of the sanctuary containing all sizes of shrimp is consistent with optimum yield because it will allow shrimp fishermen to obtain, on a temporary basis, a more valuable catch per unit of effort.

Thus, the Acting Regional Director, after consulting with the Council and considering the criteria for modifying the sanctuary, has determined that small portions of the sanctuary that periodically contain harvestable shrimp should be opened for varying lengths of time during the period April 11, 1990, through September 30, 1990. The areas proposed to be opened are less than ten percent of the geographical scope of the sanctuary and such modification will increase the benefits to fishermen by optimizing the yield of shrimp. This temporary geographic modification is consistent with Objective 1 of the FMP because it provides temporary economic relief to the stressed fishermen while continuing to optimize the yield of shrimp recruited to the fishery.

Effective from November 4, 1988, through February 2, 1989 (53 FR 45270, November 9, 1988), and from May 22, 1989, through November 3, 1989 (54 FR 16123, April 21, 1989), NOAA opened a portion of the sanctuary to trawling. That portion consisted of approximately 54 square nautical miles—the easternmost part—of the approximately 63 square nautical miles proposed by this rule to be open seasonally to trawling. During these 1988/89 periods, conflicts developed between mobile gear (trawls) and fixed gear (lobster trap) fishermen. Lobster trap fishermen had traditionally set their gear in part of te opened area of the sanctuary during the spiny lobster season, the pre-season soak period for traps, and the post-season retrieval period, which, combined, extend from August 1 to April 5.

The areas to be opened and their periods of opening in this proposed rule were selected to avoid conflict between lobster trap and shrimp trawl fishermen. Such fishermen of the area have agreed to the proposed areas and schedules. This proposed rule would formalize that local agreement and make it applicable to trawl fishermen not otherwise privy to it, such as trawl fishermen from other areas who may fish seasonally in the area of the Tortugas shrimp sanctuary.

The three areas proposed to be opened are along the edge of the Tortugas shrimp sanctuary north of the Marquesas Keys from northeast of Smith Shoal light to New Ground Shoal light (see Figure 1, below). The middle area of approximately 25 square nautical miles would be open to trawling from April 11, 1990, through September 30, 1990. The western area of approximately 5 square nautical miles would be open from April 11, 1990, through July 31, 1990. The eastern area of approximately 33 square nautical miles would be open from May 26, 1990, through July 31, 1990. These areas and time frames will allow fishermen to

harvest marketable-size shrimp from areas that would otherwise be closed while still allowing trap fishermen to harvest spiny lobster from areas customarily available to them.

Endangered Species Impacts

An Endangered Species Act Section 7 consultation concluded that this action would not adversely affect the populations of endangered/threatened species such as sea turtles. This conclusion assumed that existing regulations requiring use of turtle excluder devices in shrimp trawls remain in effect during the life of this action.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this proposed rule is consistent with the national standards and other provisions of the Magnuson Act and other applicable law.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the geographical area affected by the rule is small and, as a result, the number of shrimp trawlers affected in the Gulf-wide fishery is not substantial. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared a regulatory impact review (RIR) for this proposed rule. Based on the RIR, the Under Secretary for Oceans and Atmosphere, NOAA, determined that the rule is not major under E.O. 12291 because it would not have an annual effect on the economy of $100 million or more; would not result in an increase in costs or prices for consumers, individual industries, federal, state, or local government agenices, or geographic regions; and would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. A copy of the RIR is available (see ADDRESS).

The Council prepared an environment assessment (EA) for this proposed rule that discusses the impact on the environment as a result of this rule. A copy of the EA is available and comments on it are requested (see ADDRESS).

This proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This rule does not contain policies with implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approval coastal zone management program of Florida. This determination has been submitted for review by Florida under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 29, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 658 is proposed to be amended as follows:

PART—SHRIMP FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 658 continues to read as follows:

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

2. In § 658.22, effective from April 11, 1990, through September 30, 1990, the existing text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 658.22 Tortugas shrimp sanctuary.

* * * * *

(b) The provisions of paragraph (a) of this section notwithstanding,

(1) Effective from April 11, 1990, through September 30, 1990, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawl fishing: from point T at 24°47.8'N. latitude, 82°01.0'W. longitude to point U at 24°43.83'N. latitude, 82°01.0'W. longitude (on the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition (March 21, 1987) of NOAA chart 11439, to point V at at 24°47.55'N. latitude, 82°15.0'W. longitude; thence north to point W at 24°43.6'N. latitude, 82°15.0'W. longitude (see Figure 1).

(2) Effective from April 11, 1990, through July 31, 1990, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawl fishing: from point W to point V, both points as specified in paragraph (b)(1) of this section, to point G, as specified in paragraph (a) of this section (see Figure 1).

(3) Effective from May 26, 1990, through July 31, 1990, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawl fishing: from point F, as specified in paragraph (a) of this section to point Q at 24°46.7'N. latitude, 81°52.2'W. longitude (on the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition (March 21, 1987) of NOAA chart 11439, to point U and north to point T, both points as specified in paragraph (b)(1) of this section (see Figure 1).

3. Figure 1 is revised to read as follows:

BILLING CODE 3510-22-M

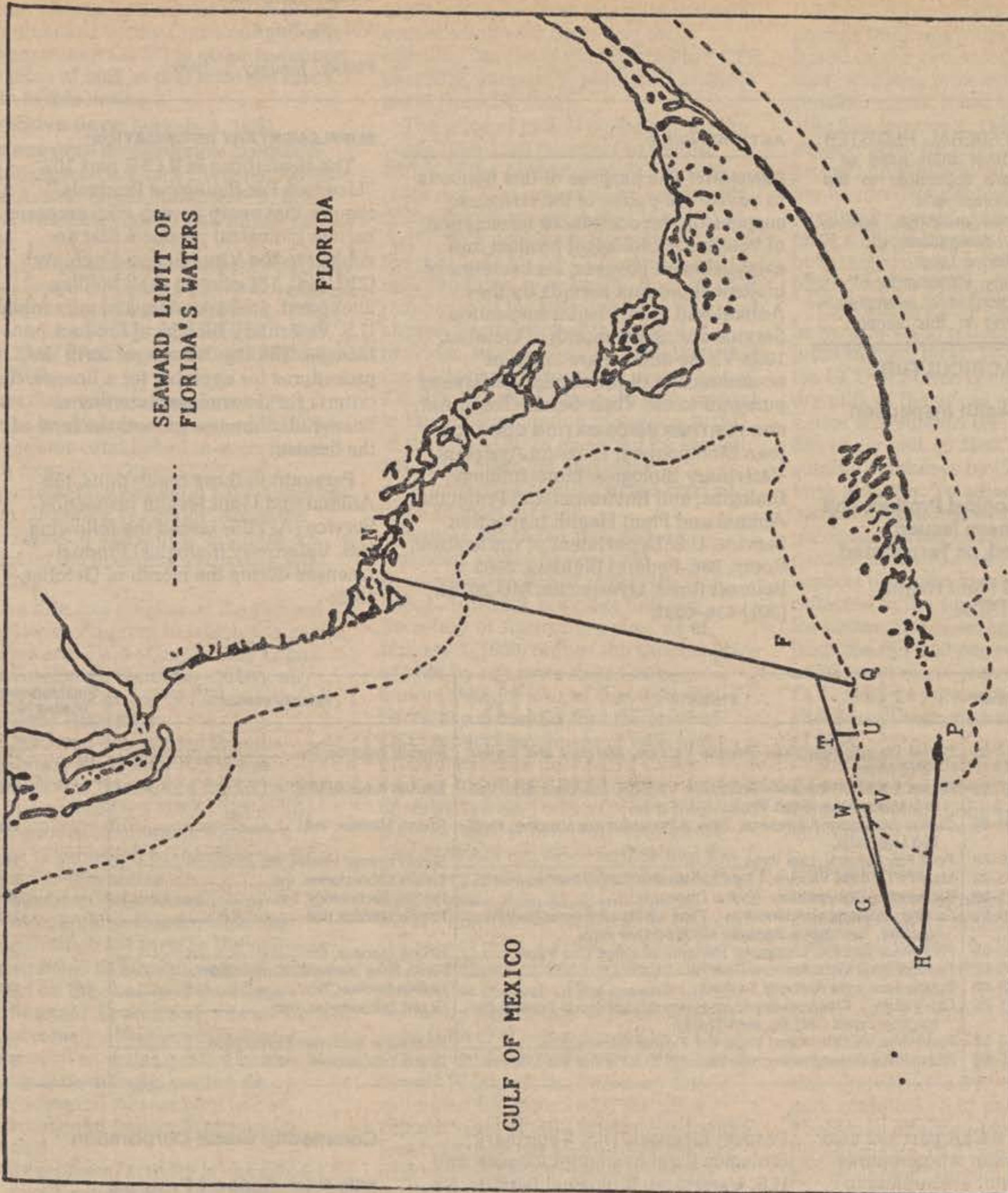

FIGURE 1. TORTUGAS SHRIMP SANCTUARY

[FR Doc. 90–236 Filed 1–4–90; 8:45 am]

BILLING CODE 3510-22-C

Notices

Federal Register
Vol. 55, No. 4
Friday, January 5, 1990

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. 89-199]

U.S. Veterinary Biological Product and Establishment Licenses Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to advise the public of the issuance, suspension, revocation, or termination of veterinary biological product and establishment licenses, and veterinary biological product permits by the Animal and Plant Health Inspection Service during the month of October, 1989. These actions are taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act.

FOR FURTHER INFORMATION CONTACT: Joan Montgomery, Program Assistant, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room, 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6332.

SUPPLEMENTARY INFORMATION:

The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

Pursuant to these regulations, the Animal and Plant Health Inspection Service (APHIS) issued the following U.S. Veterinary Biological Product Licenses during the month of October 1989:

Product license code	Date issued	Product	Establishment	Establishment license No.
12G5.41	10-17-89	Bursal Disease-Newcastle Disease Vaccine, Standard and Variant, Killed Virus.	Intervet America, Inc	286
12J5.60	10-17-89	Bursal Disease-Newcastle-Bronchitis Vaccine, Standard and Variant, Mass. Type, Killed Virus.	Intervet America, Inc	286
13C1.20	10-20-89	Canine Distemper-Adenovirus Type 2-Parainfluenza Vaccine, Modified Live Virus.	Rhone Merieux, Inc	298
1621.00	10-30-89	Fowl Pox Vaccine, Live Virus	Solvay Animal Health, Inc.	195
16G1.00	10-03-89	Marek's Disease Vaccine, Live Chicken and Turkey Herpesvirus	Tri Bio Laboratories, Inc.	275
3527.00	10-31-89	Escherichia Coli Antibody, Bovine Origin	Protein Technology, Inc.	341
4639.20	10-20-89	Cainine Distemper-Adenovirus Type 2-Parainfluenza-Parvovirus Vaccine Laptospira Bacterin, Modified Live virus.	Rhone Merieux, Inc	298
4960.01	10-20-89	Parvovirus Vaccine, Leptospira Bacterin, Modified Live Virus	Rhone Merieux, Inc	298
5110.00	10-05-89	Pseudorabies Virus Antibody Test Kit	Smith Kline Beckman Corporation	189
5505.20	10-03-89	Bovine Leukemia Antibody Test Kit	Rhone Merieux, Inc	298
7160.00	10-31-89	Clostridium Chauvoei-Septicum-Haemolyticum-Novyi-Sordellii-Perfringens Types C&D Bacterin-Toxoid.	Grand Laboratories, Inc	303
A8P5.20	10-04-89	Parvovirus Vaccine, Killed Virus, For Further Manufacture	SmithKline Bechman Corporation	189
B657.00	10-19-89	Haemphilus Pleuropneumoniae Bacterin, For Further Manufacture	Grand Laboratories, Inc	303

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license. No U.S. Veterinary Biological Establishment Licenses were issued during the month of October 1989.

The regulations in 9 CFR parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses, and U.S. Veterinary Biological Permits. No. U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses, or U.S. Veterinary Biological Product permits were suspended, revoked, or terminated during the month of October 1989.

Done in Washington, DC, this 29th day of December 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-280 Filed 1-4-90; 8:45 am]

BILLING CODE 3410-34-M

Commodity Credit Corporation

Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of milk price suport level and commodity credit corporation milk support purchase prices.

SUMMARY: This notice affirms the determination of the Secretary of Agriculture that the support price for milk containing 3.67 percent milkfat shall be $10.10 per hundreadweight (cwt.) for the period January 1 through December 31, 1990. The prices at which

butter, cheese, and nonfat dry milk will be purchased by the Commodity Credit Corporation ("CCC") in order to support the price of milk at that level are also forth in this notice.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Indulis Kancitis, Dairy Division, ASCS-USDA, 5747 South Building, P.O. Box 2415, Washington, DC 20013 (202) 447-3385.

The Final Regulatory Impact analysis regarding this Notice of Determination is available from Charles N. Shaw, Dairy/Sweeteners Group, ASCS-UDDA, P.O. Box 2415, Washington, DC 20013 (202) 557-7601.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "major" since the provisions of this notice will have an effect on the economy exceeding $100 million.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to this notice.

It has been determined by an environmental evaluation that the determination set forth in the notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factor such as water quality or air quality. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is required.

This program/activity is not subject to the provisions of Executive Order No. 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).

The price of milk is supported for the years 1986-1990 pursuant to section 201(d) of the Agricultural Act of 1949 (1949 Act"), as amended by section 101 of the Food Security Act of 1985 ("1985 Act"). Milk prices are supported through the purchase by the CCC of milk and milk products; specifically, through CCC purchases of butter, nonfat dry milk and cheese. Section 102 of the 1985 Act provides, with respect to 1986-1990, that the notice and rulemaking provisions of 5 U.S.C. 553 shall not apply with respect to the implementation of section 201(d) of the 1949 Act, as amended by section 101 of the 1985 Act, including determinations relating to the level of price support for milk.

Section 201 of the 1949 Act, as amended by the Agricultural Reconciliation Act of 1989 (Title I of Pub. L. 101-239), provides that the Secretary of Agriculture may, as of January 1, 1990, reduce the support price of milk by not more than $.50 per hundredweight if as of that date the Secretary estimates that the level of CCC support purchases of milk and products of milk (less sales under section 407 of the 1949 Act for unrestricted use) will exceed 5 billion pounds (milk equivalent) during 1990. The 1949 Act provides further that the Secretary must offer to purchase butter for not more than $1.10 per pound, except that the Secretary may allocate the rate of price support between the CCC purchase prices for nonfat dry milk and butter in such other manner as the Secretary determines will result in the lowest level of expenditures by CCC.

As is set forth in the Final Regulatory Impact Analysis, the Secretary has estimated for 1990, that if the price support level of milk is continued at the level of $10.60 per hundredweight for milk containing 3.67 percent milkfat, purchases of milk and milk products by CCC will substantially exceed 5 billion pounds (milk equivalent-milkfat basis). Based on the estimated surplus and short and long term market considerations, it has been determined effective January 1, 1990 that: (a) The support price for milk containing 3.67 percent milkfat will be reduced by $.50 per hundredweight from $10.60 to $10.10 per hundreweight, and (b) the entire price support level reduction will, as between nonfat dry milk and butter, be placed on the CCC price for butter.

The CCC price for cheese has also been reduced to reflect the change in the price support level. The purchases by the CCC of butter, cheese, and nonfat dry milk at the prices set forth in this notice will support the price of milk at $10.10 per cwt. In 1989, 95 percent of the surplus purchases by CCC were in the form of butter. To adjust for current market conditions, with respect to CCC purchases of butter and NDM, 100 percent of the 50-cent per cwt. price support decrease for milk will be reflected in the support purchase price for butter. The lowering of the support price the full $.50 per cwt. along with the adjustment made with respect to the CCC purchase prices for butter and cheese will assure an adequate supply of milk.

The CCC purchase prices set out in this notice are subject to additional terms and conditions as CCC may announce.

Determination

(1) The level of price support for the period January 1 through December 31, 1990, shall be $10.10 per cwt. for milk containing 3.67 percent milkfat.

(2) The purchase of butter, cheese, and nonfat dry milk produced on or after January 1, 1990, at the prices set forth below will support the price of milk at a rate equivalent to $10.10 per cwt. for milk containing 3.67 percent milkfat. Therefore, effective January 1, 1990, until further notice, CCC purchase prices for butter, cheese, and nonfat dry milk shall be as follows:

[Dollars per pound]

	Products produced before January 1, 1990 which are graded and offered by January 12, 1990	Products produced on or after January 1, 1990 or not graded and offered by January 12, 1990
Butter, 64- & 68-lb. blocks		
(U.S. Grade A or higher, (Salted))	1.2050	1.0925
Nonfat dry milk (spray), 50-lb. bags		
(U.S. Extra Grade, but not more than 3.5 percent moisture)		
Nonfortified	0.7900	0.7900
Fortified (Vitamins A and D)	0.8000	0.8000
Cheddar cheese, standard moisture basis [1]		
40- & 60-pound blocks, U.S. Grade A or higher (No vat shall contain more than 38.5 percent moisture)	1.1550	1.1100

[Dollars per pound]

	Products produced before January 1, 1990 which are graded and offered by January 12, 1990	Products produced on or after January 1, 1990 or not graded and offered by January 12, 1990
500 lb. in fiber barrels, U.S. Extra Grade (No vat shall contain more than *36.5 percent moisture*)	1.1150	1.0700

[1] The cheese price will be adjusted for moisture content as shown in the Moisture Adjustment Cheese Price Chart (Form ASCS-150).

(3) Further terms and conditions for CCC price-support purchases of butter, cheese, and nonfat dry milk will be set forth in CCC purchase announcements for such purchases.

Authority: 7 U.S.C. 1446 and 1446 note; 15 U.S.C. 714b and 714c.

Signed at Washington, DC, on December 29, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 90-281 Filed 1-4-90; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Primrose Buyout Timber Sale, Tahoe National Forest, Sierra County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for proposed timber harvest on the Downieville Ranger District, Tahoe National Forest in an area allocated for timber management.

An environmental assessment was prepared in 1988. A decision was made to construct about 0.3 miles of new road and harvest about 4.7 MMBF from 137 acres using clearcutting, overstory removal and sanitation harvest prescriptions by tractor logging methods. The decision to proceed with the timber sale project was appealed.

The analysis previously prepared will be updated to incorporate the issues raised during the appeal and any new issues raised as a result of this notice of intent. A range of alternatives for timber harvesting will be analyzed that address the following issues: (1) Because of extensive timber harvesting that has occurred on private land within the watersheds, there is a concern that water quality may be affected by cumulative watershed effects if additional harvesting occurs. (2) Ability to meet visual quality objectives along the 93 road, an intermediate travel route. (3) Administrative concern for timely accomplishment of broadcast burning for site preparation and fuels treatments. (4) Whether soils would be damage and long-term soil productivity would be maintained because of clearcutting and site preparation practices that call for tractor piling and burning. (5) Whether old growth habitat necessary for certain wildlife species such as the pacific fisher, would be destroyed. (6) The use of clearcutting as a management tool.

DATE: Comments should be made in writing and received by February 12, 1990.

ADDRESS: Written comments concerning the project should be directed to J. Thomas Millard, District Ranger, Downieville Ranger District, North Yuba Ranger Station, Star Route 1, Camptonville, CA 95922.

FOR FURTHER INFORMATION CONTACT: Larry Svalberg, Supervisory Forester, Downieville Ranger District, Camptonville, CA 95922, telephone (916) 288-3231.

SUPPLEMENTARY INFORMATION: Comments from other Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by the decision, will be solicited to identify other significant issues. Public participation was previously solicited during the development of the environmental assessment prepared in 1988. Continued participation will be emphasized through individual contacts. No public meetings are scheduled.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 1990. A 45-day comment period will follow publication of a notice of availability of the draft EIS in the **Federal Register**. The comments received will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is expected to be completed by May, 1990; and documented in a Record of Decision. That decision will be subject to appeal under standard agency procedures (36 CFR 217). To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council On Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC* 435 U.S. 519,533 (1978). Such decisions have also established that environmental objections that could have been raised at the draft stage may be waived or dismissed by the courts if not raised until after completion of the final EIS. *Wisconsin Hertages, Inc.* v. *Harris*, 490 F Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested participate by the close of the 45-day comment period so that substantive comments and objections are available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

District Ranger, J. Thomas Millard will be the responsible official for this environmental impact statement.

Dated: December 29, 1989.

Geri V. Bergen,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 90-290 Filed 1-4-90; 8:45 am]

BILLING CODE 3410-11-M

Sugar Bowl Ski Resort Expansion Project, Tahoe National Forest, Placer and Nevada Counties, CA

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, Tahoe National Forest is preparing an environmental impact statement (EIS) for a proposal to expand the existing Sugar Bowl Ski Resort. The Notice of Intent to prepare an Environmental

Impact Statement was published in the **Federal Register** on May 3, 1989 (54 FR 18917). That Notice announced that a draft environmental impact statement (DEIS) would be available for review in November 1989. The DEIS is now expected to be available in April 1990.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be directed to Rick Maddalena or Bob Moore, Truckee Ranger District, P.O. Box 399, Truckee, CA 95734, phone (916) 587-3558.

Dated: December 27, 1989.

Alan M. James,

Acting Forest Supervisor.

[FR Doc. 90-240 Filed 1-4-90; 8:45 am]

BILLING CODE 3410-11-M

Human Nutrition Information Service

Dietary Guidelines Advisory Committee; Meeting

SUMMARY: The Committee will hold its third meeting on January 10, 1990, 9 a.m. to 5 p.m. at the Administration Building, between 12th and 14th Streets on Independence Avenue, SW., Room 107-A, Washington, DC 20250. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Betty B. Peterkin, Executive Secretary to the Committee from USDA, Human Nutrition Information Service, Federal Building, Hyattsville, MD 20782 (301) 436-5090; or Linda Meyers, Ph.D., Executive Secretary to the Committee from DHHS, Office of Disease Prevention and Health Promotion, Room 2132 Switzer Building, 300 C Street, Washington, DC 20201 (202) 472-5308.

SUPPLEMENTARY INFORMATION: .

Committee's Task: The Committee is to advise the Secretaries of Agriculture and Health and Human Services as to whether a revision of the second (1985) edition of *Nutrition and Your Health: Dietary Guidelines for Americans* is warranted. If the Committee decides a revision is warranted, it will recommend revisions to the Secretaries.

Announcement of Meeting: The Committee's third meeting will be January 10, 1990, from 9:00 a.m. to 5:00 p.m. EST. The meeting will be held in the Administration Building, between 12th and 14th Streets on Independence Avenue, S.W., Room 107-A, Washington, D.C. 20250.

The agenda will include discussions of materials drafted by Committee members for possible inclusion in a third edition of *Nutrition and Your Health: Dietary Guidelines for Americans* and a draft of the Committee's report.

Public Participation at Meeting: The meeting is open to the public; however, space is limited.

The public may file statements with the Committee before or after the meeting, but prior to January 26, 1990 by addressing them to either of the contact persons listed above.

Done at Washington, D.C. this 18th of December, 1989.

James T. Heimbach,

Acting Administrator, Human Nutrition Information Service, U.S. Department of Agriculture.

[FR Doc. 90-289 Filed 1-4-90; 8:45 am]

BILLING CODE 3410-46-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 91169-9269]

Foreign Availability Assessments: Initiation of an Assessment on "Stored Program Controlled" Die (Chip) Mounters and Bonders

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of initiation of an assessment with a request for comments.

SUMMARY: Pursuant to section 5(f) of the Export Administration Act, the Office of Foreign Availability has initiated an assessment to investigate the foreign availability of stored program controlled die (chip) mounters and bonders and is seeking public comments on the foreign availability of such items.

DATE: The period for submission of information will close 30 days after publication of this notice.

ADDRESSES: Submit information relating to the allegation of foreign availability to: Irwin M. Pikus, Director, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, Room SB-701, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: John R. Pastore, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION: Under section 5(f) and (h) of the Export Administration Act of 1979, as amended, the Office of Foreign Availability (OFA) assesses the foreign availability of goods and technology whose export is controlled for notation security reasons. Part 791 of the Export Administration Regulations (EAR) establishes the procedures and criteria for initiating and reviewing claims of foreign availability on these items. Pursuant to sections 5(f) (3) and (9) of the EAA, as amended by the Omnibus Trade and Competitiveness Act of 1988, OFA is publishing this notice.

On September 5, 1989, OFA accepted a foreign availability allegation relating to the decontrol of "stored program controlled" die (chip) mounters and bonders. This item is controlled for national security reasons under Exporter Control Commodity Number (ECCN) 1355A(b)(5)(i)—"Equipment for the assembly of microcircuits."

After determining that the applicant company had filed a complete submission claiming foreign availability for "stored program controlled" die (chip) mounters and bonders and that it was supported by reasonable evidence addressing the established criteria, OFA initiated an assessment on September 5, 1989. Consistent with the requirement of the EAA, by February 5, 1990, the Department intends to submit for publication in the **Federal Register** its determination of the foreign availability of this item.

To assist OFA in assessing such foreign availability any person may submit relevant information to OFA at the above address.

The following types of information would be especially useful:

- Product name and model designations of the U.S. and non-U.S. item;
- The names and locations of the non-U.S. sources;
- Key performance elements, attributes, and characteristics of the items on which quality comparisons may be made;
- The non-U.S. sources' production quantities and/or sales;
- An estimate of market demand for the item and of the economic impact of the control; and
- Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is alleged.

Evidence supporting such relevant information may include, but is not limited to: foreign manufacturers' catalogues, brochures, or operations or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 provides additional examples of evidence that would be helpful to the investigation.

OFA will carefully and fully consider all information received. The Office will use information received to supplement

other information to assess the foreign availability of the item.

OFA will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted to the Bureau of Export Administration OFA, separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information". The Bureau of Export Administration will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by the Bureau of Export Administration as privileged under section (b) (3) or (4) of the Freedom of Information Act (5 U.S.C. 552(b) (3) and (4)) will be kept confidential and will not be available for public inspection, except as authorized by law.

Communications between the United States Government and foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memorandum, which will also be a matter of public record and will be available for public review and copying.

The public record of information received on the allegation for foreign availability will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Room 4886, Department of Commerce, 14th & Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission or relevant information will close 30 days from the date of publications. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured.

Accordingly, the Department encourages persons who wish to provide information related to this allegation of foreign availability to do so at the earliest possible time to permit the Department the fullest consideration of the information.

Dated: January 2, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-295 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 9114-01]

Actions Affecting Export Privileges; Ming-Sun Wan

Summary

Pursuant to the November 30, 1989 Default Decision and Order of the Administrative Law Judge, which Decision and Order is affirmed in full, Ming-Sun Wan, with an address at Mei Foo Sun Chuan Stage 5, No. 15, Flat F, Kowloon, Hong Kong is denied all U.S. export privileges for a period of five (5) years from the date hereof.

Default Order

On November 30, 1989, the Administrative Law Judge entered his recommended Default Decision and Order in the above referenced matter. That Default Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record and based on the facts of this case, I affirm the Decision and Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: December 27, 1989.

Stanley Sienkiewicz,

Acting Under Secretary for Export Administration.

Decision and Order

Appearance for Respondent: Ming-Sun Wang, Mei Foo Sun Chuan Stage 5, No. 15, Flat F, Kowloon, Hong Kong.

Appearance for Agency: Thomas C. Barbour, Attorney-Advisor, Office of the Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3837, 14th & Constitution Ave., NW., Washington, DC 20230.

Preliminary Statement

On May 5, 1989, the Office of Export Enforcement, Bureau of Export Administration, issued a charging letter alleging that Ming-Sun Wan (Wan), Managing Director of Ka Wo Imports and Export Centre, and Ka Wo Import and Export Centre (Ka Wo) [1] violated the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401-2420) (Supp. 1989)) (the Act) and the implementing Regulations. That letter alleged that Wan, in his capacity as managing director of Ka Wo, had caused, aided and abetted employees of a company located in the People's Republic of China (P.R.C.) in the reexport of a U.S.-origin CAD-CAM computer system from Hong Kong to the P.R.C., in violation of § 787.2 of the Regulations. It was also alleged that Wan had transferred the U.S.-origin equipment to the employees of the P.R.C. company in Hong Kong, knowing that they were going to reexport the equipment to the P.R.C. without having obtained the reexport authorization required by § 774.1 of the Regulations, thereby violating § 784.4 of the Regulations.

The record reflects that Wan was served with the charging letter on or about September 11, 1989, after an earlier initial unsuccessful attempt.

Because Respondent failed to answer within the 30 days allowed, this office issued an Order, dated October 23, 1989, ruling that Respondent was in default and directed Agency Counsel to file an evidentiary submission by November 22, 1989, pursuant to § 788.8 of the Regulations, which provides:

DEFAULT (a) General

> If a timely answer is not filed, the department shall file with the Administrative Law Judge a proposed Order together with the supporting evidence for the allegations in the charging letter. The Administrative Law Judge may require further submission and shall issue any Order he deems justified by the evidence of record, any Order so issued shall have the same force and effect as an Order issued following the disposition of contested charges.

Agency Counsel filed the Motion for Default Order on November 22, 1989. That submission contains documentary evidence to support the allegations made in the charging letter. A copy of the Motion for Default Order was also sent to the Respondent, to which there has been no response or objection.

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[1] Based upon the representation that Ka Wo was no longer in existence, that company name was removed from the case on September 9, 1989.

Facts

On or about June 28, 1984, Computervision Corporation (U.S.A.) exported a CAD-CAM computer system to an authorized consignee under its distribution license. The equipment had been ordered from Computervision by Ka Wo, a Hong Kong Company, and was intended to be reexported by Ka Wo to an end-user in the P.R.C. Ka Wo took possession of the CAD-CAM system in Hong Kong in early July 1984. Ka Wo also acknowledged that the equipment would be kept in Hong Kong "waiting for the approval of the export license [authorizing the reexportation of the equipment to the P.R.C.]." *Id.*

On or about July 2, 1984, Computervision filed a request to reexport the CAD-CAM equipment than being held in Hong Kong by Ka Wo to an end-user in the P.R.C. However, before the request to reexport the CAD-CAM system to the P.R.C. was approved, the diversion of this equipment to the P.R.C. occurred. The evidence presented reflects that the CAD-CAM system was reexported from Hong Kong to the P.R.C. more than 9 months prior to the approval of that license. Computervision returned the license unused.

On or about December 13, 1984, Computervision Designer Systems (HK) Ltd., Computervision's Hong Kong representative, contacted Ka Wo to perform a routine inspection of the CAD-CAM system which had been delivered to Ka Wo in July 1984.

Following Ka Wo's refusal to comply with Computervision's request, Computervision contacted both United States and Hong Kong officials regarding this matter.

As a result of the investigation initiated by Hong Kong officials, Ming-Sun Wan was prosecuted in Hong Kong for exporting the CAD-CAM system to the P.R.C. without the appropriate Hong Kong export license. On August 12, 1986, the District Court of Hong Kong convicted Wan on the charge "that he knew the crime of exporting the computer without a license would be committed and actively assisted those who committed it." In the decision, the court specifically found:

> I am satisfied that the computer was exported to the People's Republic of China without a license it having been taken by the trainees [of the intended end-user in the P.R.C.] on completion of their course with the full knowledge and indeed encouragement of the Defendant [Wan] who needed reimbursement of the money he had expended.

In previous enforcement proceedings the doctrine of collateral estoppel has been applied to these proceedings. *See, e.g.*, In the Matter of Spawr Optical Research, Inc., 51 FR 7477 (March 4, 1986) and *Spawr Optical Research Inc.*, v. *Baldridge* 689 F Supp 1366 (1986). Here, Wan has been tried and convicted of aiding and abetting the unlicensed reexport of the CAD-CAM computer system from Hong Kong to the P.R.C. That conviction was entered by a court of competent jurisdiction in Hong Kong. The charges on which Wan was prosecuted, as well as the facts on which he was convicted, are essentially the same as are at issue here. Accordingly, based upon his Hong Kong conviction, and the independent evidence submitted, I find that Wan violated § 787.2 of the Regulations by causing, aiding and abetting the export of a CAD-CAM computer system from Hong Kong to the P.R.C. without having obtained from the Department the reexport authorization required by § 774.1 of the Regulations.

Further, the evidence establishes that Wan knew of, and agreed to comply with, U.S. reexport controls when he received the CAD-CAM system. Indeed, on January 18, 1984, Wan had signed a Form ITA-629, Statement by Ultimate Consignee and Purchaser, in support of the application to reexport the system to the P.R.C. Accordingly, by transferring the CAD-CAM system to the employees of the P.R.C. company knowing or having reason to know that a violation of the Regulations was intended to occur with respect to the transaction, namely, that the system would be reexported to the P.R.C. without the reexport authorization required by § 774.1 of the Regulations, Wan also violated § 787.4 of the Regulations.

Sanctions

The evidence submitted establishes that, despite specifically agreeing to comply with U.S. reexport requirements, Wan knowingly disregarded those requirements. The CAD-CAM system is an item that is multilaterally controlled by the United States and its allies for reasons of national security. Further, even though a license was ultimately granted to computervision authorizing the reexport of this system to the P.R.C., the evidence shows that WAN committed these violations prior to the granting of that license, thereby demonstrating a callous disregard for U.S.-export controls.

I find that a Order denying export privileges for 5 years from the date of the final Order should be entered with respect to the Respondent Ming-Sun Wan.

Order

I. For the period of five years, from the date of the final Agency action, Respondent: Ming-Sun Wan, Mei Foo Sun Chuan Stage 5, No. 15, Flat F, Kowloon, Hong Kong, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or aboard, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export licnese application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exproted form the United States, or to be exported; and

(v) In the finaning, forwarding, transporting, or other servicing of such commotieis or technical data. Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, coporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position or responsibility, or other connection in the conduct of trade or related services.

IV. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privilges of participating, in any manner or capacity, in any special licensing procedure, including,

but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indierectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly, or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export reexport, transhipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related persons denied export privileges, or

(ii) Order, buy receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodities or technical data exported or to be exported from the United States.

VI. This order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Dated: November 30, 1986

Hugh J. Dolan,

Administrative Law Judge.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., N.W., Room 3898B, Washington, DC 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days, 15 CFR 388.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act. The final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of it issuance.

[FR Doc 90-254 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-301-602]

Certain Fresh Cut Flowers From Colombia Preliminary Results of Antidumping Duty Administrative Review.

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of preliminary results of antidupming duty administrative review.

SUMMARY: In response to requests by the petitioner and thirty-four respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain fresh cut flowers from Colombia. The review covers 218 producers and/or exporters of this merchandise to the United States and the period March 1, 1988 through February 28, 1989. The review indicates the existence of dumping margins for certain firms during the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 5, 1990.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 8492) the antidumping duty order on certain fresh cut flowers from Colombia. The Floral Trade Council, the petitioner, and 34 respondents requested in accordance with 19 CFR 353.53a(a) (1988) that we conduct an administrative review. We published a notice of initiation on April 28, 1989 (54 FR 8320). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nonmenclature. On January 1, 1989, the United States 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 that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of certain fresh cut flowers from Colombia (standard carnations, miniature (spray) carnations, standard chrysanthemums, and pompon chrysanthemums). During the review period through December 31, 1988, this merchandise was classifiable under items 192.1700, 192.2110, 192.2120, and 192.2130 of the Tariff Schedules of the United States, Annotated ("TSUSA"). This merchandise is currently classifiable under HTS items 0603.10.30.00 and 0603.10.70.10, 0603.10.70.20, and 0603.10.70.30. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers 218 producers and/ or exporters of certain fresh cut flowers from Colombia to the United States and the Period March 1, 1988 through February 28, 1989. Thirty-four of the covered firms requested reviews of themselves, and we included on additional firm with that group because we could not segregate its data from that of three related firms that had requested review. We reviewed data from each of those 35 firms.

Fifteen firms were sampled from among the 183 companies only the petitioner requested we review. We decided to use sampling to determine the results for the firms requested solely by petitioner because of the large number of firms and transactions. The alternative, reviewing each of these firms separately, would have led to an extremely long delay in completing the review. One hundred thirty-five firms with shipments, requested only by petitioner, were covered by the weighted-average results of the sampled companies. Thirty-three firms, subject to a review request, had no exports.

Because it was expected that constructed value would often be the basis for FMV, respondents requested that we take into account economies of scale in the Colombian fresh cut flower industry in determining which companies to sample. At the time of sampling, the only relevant study available to us was Economic Information Report (EIR) 256, "Business Analysis of Foliage Plant Nurseries in South Florida, 1987," by J. Robert Strain and Alan W. Hodges of the Food and Resources Economics Department at the University of Florida. EIR 256 indicates that significant unit cost differences exist between large-sized and small-sized firms, but that little difference exists between medium-sized and large-

sized firms. (The data on medium-sized firms is not reported, but can be derived from the data that is reported.) Using EIR 256 as the best information available, we divided the 183 firms to be sampled into two groups of large/medium and small firms. Size in EIR 256 was measured in terms of production volume. We had only export volume data, so we included in the group of small firms all firms with export volumes of 500,000 kgs. or less.

In addition to the 34 non-sampled respondents who requested review, the Department determined that, for purposes of this review, it had the resources to sample and review no more than 15 additional firms. Therefore, four large/medium and 11 small firms were randomly selected from the two groups. This allocation reflects (1) the relative size of the groups and (2) the greater variation in small firm export volumes. This variation of export volumes and the findings of EIR 256 suggest that there are greater cost variations within the small group than in the large/medium group. A margin for each group was calculated based on weighted-average company margins. The margins of the two groups were, in turn, weight averaged using the export shares of each group to arrive at the overall weighted-average margin, the "sample group" rate.

The following firms were sampled: Inversiones Targa, Claveles Colombianos, Floral (or Bochica), Agricola Papagayo, Flores Horizonte, Flores Tiba, Agricola Los Arboles, Jardines Del Muna, Flores Juncalito, Dianticola Colombiana, Flores Bachue, Combiflor, Florandia Herrera-Camacho, Universal Flowers, and Flores La Valvanera.

Three firms orginally selected from the sample group of small firms were replaced because they reported no sales to the United States during the review period. The replacement firms were randomly selected from among the previously non-selected firms.

We did not include Flores Timana in this review because it was excluded from the antidumping duty order. We did not include Splendid Flowers in the review because it withdrew its review request and was not named in the petitioner's request. Flores Suasque (Velex de Monchaux), Claveles Colombianos, Sun Flowers, and Fantasia Flowers also withdrew their requests for review, but we included them in our sample group because the petitioner requested reviews of these firms.

United States Price

In calculating United States ("USP") the Department used purchase price when sales were made to unrelated purchasers in the United States prior to the date of importation, and exporter's sales price ("ESP") when sales were made to unrelated purchasers in the United States after the date of importation, both pursuant to section 772 of the Tariff Act.

We calculated purchase price based on the f.o.b. packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, Colombian export certificate charges, airport cold storage charges, and foreign brokerage and handling.

Exporter's sales price was calculated based on the price to the first unrelated customer in the United States. We made deductions, where appropriate, for foreign inland freight, airport cold storage charges, export licenses, flower association fees, phytosanitary expenses, brokerage and handling, air freight, box commissions, credit expenses, returned merchandise expenses, royalties, direct travel expenses, U.S. duty, and either commissions paid to unrelated U.S. consignees or indirect U.S. selling expenses of related consignees. We added a box charge to the U.S. selling price, where appropriate.

Foreign Market Value

In calculating foreign market value, the Department used monthly weighted-average home market prices to unrelated purchasers when sufficient quantities of such or similar merchandise were sold to provide a basis for comparison, monthly weighted-average third country prices when home market sales were insufficient, and constructed value when both home market and third country sales were insufficient, pursuant to section 773 of the Tariff Act. Where constructed value would have been the basis of foreign market value for Claveles Colombianos, but that information was not available, we used sales to the largest third country market as the best information available.

We calculated foreign market value, where appropriate, on packed or unpacked prices to unrelated purchasers. We made deductions, where appropriate, for inland freight, and adjustments for U.S. packing. For U.S. purchase price comparisons, we made adjustments for differences in credit expenses, export licenses, flower association fees, and phytosanitary expenses, pursuant to 19 CFR 353.56 (1989). Where there were home market or third country commissions and no U.S. commissions, we deducted the home market or third country commission and added U.S. indirect selling expenses up to the amount of the commission. When comparing foreign market value to ESP, we made deductions, where appropriate, for indirect selling expenses as an offset to such expenses incurred on U.S. sales, and for commissions, prompt payment discounts, export licenses, flower associations fees, phytosanitary expenses, credit expenses, and credits for returned merchandise.

We calculated foreign market value based on constructed value, where appropriate, pursuant to section 773(e) of the Act. The constructed value represents the average per-flower cost for each type of flower, based on the costs incurred to produce that type of flower over the review period.

Except where noted below, the Department used the materials, fabrication, and general expenses reported by respondents. The per-unit average constructed value was based on the quantity of export quality flowers actually sold by the grower/exporter in all markets. The non-export quality flowers (culls) which are produced in conjunction with the growth of export quality flowers were considered to be by-products. Therefore, revenue from the sales of culls was offset against the cost of producing the flowers.

Actual general and administrative expenses were used since, in all cases, they exceeded the statutory minimum of 10 percent of the cost of materials and fabrication. When both imputed credit and actual credit expenses were included in CV, the actual interest expenses was reduced to prevent double counting.

When respondents indicated that the actual profit for merchandise of the same general class or kind could not be calculated or was less than eight percent of the sum of the cost of production and general expenses, the Department used the eight percent statutory minimum for profit. We added U.S. packing to constructed values.

Adjustments to the respondents' data were made when certain costs necessary for the production of the flowers under review were not included or were not quantified or valued appropriately. The following specific adjustments were made to certain information submitted by respondents:

For Flores La Valvanera, all home market sales of pompons were treated as by-products because they were less than export quality, and the reported revenue was used to offset production costs. In addition, Flores La Valvanera claimed an adjustment for an abnormally low yield. This adjustment

was based on the ratio of "projected" volume to actual results. We disallowed this adjustment because we calculate cost on the basis of actual production, not projected production

For Agricola Papagayo, "undistributed" costs, including those of the related producer Calypso and the sales company Omniflora, were allocated to Papagayo's production based on area cultivated. In addition, Papagayo's production cost for carnations is a weighted average of its own cost and that of Calypso. This was done because it was not possible to determine consistently which of Papagayo's carnations were grown on the Papagayo or the Calypso farm.

Florlinda, an Agrodex group company, did not incur production costs for pompons during the period of review and therefore could not provide constructed value information. We therefore used the weighted-average costs of the two Agrodex companies which submitted constructed value data for pompons produced during the review period, as best information available.

Averaging

Since flowers can be sold at full price for only a few days, averaging is necessary to account for perishability. Growers are unable to control when they sell their flowers. Moreover, they do not have any control over the prices they are willing to accept for their products. Unlike non-perishable products, sellers cannot withhold their flowers from the market or store them until they can obtain a desired price. The Department has used its discretion in the past to employ non-traditional methodology when faced with unique circumstances, such as those found in any investigation or review of a perishable product. *See*, for example, Certain Fresh Winter Vegetables from Mexico, Final Antidumping Duty Determination of Sales at Not Less Than Fair Value, 45 FR 20512 (1980); Fall-Harvested Round White Potatoes from Canada, Final Determination of Sales at Less Than Fair Value, 48 FR 51669 (November 10 1983). In the investigation of certain fresh cut flowers from Colombia, we determined that the practice of some consignment brokers is to report U.S. sales prices to growers only on a monthly basis. In view of the statutory preference for actual price information, we collected U.S. sales information on a monthly basis in this review. Pursuant to section 777A of the Tariff Act, we determined that it was appropriate to average U.S. prices on a monthly bass in order to use actual prices when available, to take account of the large volume of sales, and to accommodate the pricing practices associated with a perishable product. This decision is consistent with our practice in the fair value investigation and other flower reviews and balances the interest of petitioner in having a shorter period of avaraging against the potential prejudice to respondents. Our data indicated that the pattern of U.S. price movements roughly paralleled third country price movements. Consequently, the use of average monthly U.S. and FMV prices provides an accurate basis of comparison.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period March 1, 1988 through February 28, 1989:

The following firms requested and received individual reviews:

Producer/exporter	Margin (percent)
Agrodex (Paso Ancho/Ukrania	3.28
Argicola Los Gaques	24.08
Agrosuba	0.03
Cultivos De Caribe	2.55
Flores El Trentino	8.70
Flores El Zorro (El Zorro/Agrodex)	5.40
Floralex	13.47
Floramerica	2.55
Flores Colombianos	0.03
Flores Colon	20.75
Flores Condor De Colombia	0.003
Flores De Las Mercedes	2.79
Flores De Los Amigos	7.05
Flores De Los Arrayanes	5.83
Flores De Serezuela	0.47
Flores Dos Hectareas	41.26
Flores Del Gallinero	0.94
Flores El Lobo	1.86
Flores El Puente	4.67
Flores Juanambu	18.30
Flores La Conejera	2.75
Flores La Maria	1.84
Flores Las Palmas	2.55
Florlinda	15.88
Inverflores	2.46
Inverpalmas	15.76
Iversiones Santa Rosa	0.54
Jardines De Colombia	2.55
Jardines De Los Andes	0.03
Flores De La Comuna	1.84
Las Amalias	0
Pompones Limitada	0
Flores Del Potrero	8.81
Productos El Cartucho	0.03
Flores Tibati	6.16

The following firms were among those requested only by the petitioner and were selected as representatives by random sample:

Producer/exporter	Margin (percent)
Agricola Los Arboles	1.31
Agricola Papagayo	0.62
Claveles Colombianos	0.59
Combiflor	0
Dianticola Colombiana	3.06
Floral	0.70
Florandia Herrera-Camacho	1.03
Flores Bachue	9.52
Flores Juncalito	81.53
Flores La Valvanera	7.83
Flores Monte Verde (Horizonte)	16.45
Flores Tiba	6.21
Iversiones Targa	8.59
Jardines Del Muna	35.62
Universal Flowers	18.51

The following firms were requested only by the petitioner but were not selected in the sample. They will receive the sample group rate of 8.51 percent.

Producer/Exporter

Abaco Tulipanes De Colombia
Agricola Benilda
Agricola Bojaca
Agricola Del Monta
Agricola El Jardin
Agricola Guali
Agricola Jicabal
Agricola La Floresta
Agricola La Fontana
Agricola Malqui
Agroindustrial Del Rio Frio
Agromec
Agromonte
Agropecuaria Cuernavaca
Arawac
Astro
Beall Company
Ciba Geigy Colombiana
Cienfuegos
Claveles De Los Alpes
Cultivos Buenavista
Cultivos El Lago
Cultivos Medellin
Daflor
De La Pava Guevara
Del Tropico
Edir
El Rancho
Exportaciones Bochica
Fantasia Flowers
Flores Agua Clara
Flores Aguila
Flores Alfaya
Flores Andinas
Flores Aurora
Flores Calaypso
Flores Calichana
Flores Cigarral
Flores De Cota
Flores De Funza
Flores De Hunza
Flores De La Pradera
Flores De La Sabana
Flores De Los Andes
Flores De Nemocon
Flores De Suba
Flores De Suesco
Flores Del Bosque
Flores Del Campo
Flores Del Cauca
Flores Del Cielo
Flores Del Lago
Flores Del Monte
Flores Del Pinar
Flores Del Rio
Flores Del Tambo

Flores El Arenal
Flores El Rosal
Flores El Vino
Flores Estrella
Flores Galia
Flores Generales
Flores Hana Ichi De Colombia
Flores Intercontinental
Flores Internacionales
Flores La Conchita
Flores La Estancia
Flores La Pampa
Flores La Union
Flores Las Caicas
Flores Llanogrande
Flores Marandua
Flores Monserrate
Flores Mountgar
Flores Petaluma
Flores San Carlos
Flores Santa Fe
Flores Santa Rosa
Flores Sausalito
Flores Suasque
Flores Tairona
Flores Tejas Verdes
Flores Tokai Hisa
Flores Tomine
Flores Tropicales
Flores Urimaco
Floresa
Florex
Florexpo
Floricola La Gaitana
Hacienda Gurubital
Horticultura De La Sabana
Industrial Agricola
Ingro
Internacional De Flores
Invermel
Inversiones Agricolas
Inversiones Almer
Inversiones El Bambu
Inversiones Istra
Inversiones La Serena
Inversiones Morcote
Inversiones Penas Blancas
Inversiones Santa Rita
Jaramillo Y Daza
Jardines Bacata
Jardines De Chia
Jardines Fredonia
Jardines La Aurora
Kingdom
Las Plazoleta
Linda Colombiana
Los Gaques
Los Geranios
MG Consultores
Monteverde
Orquideas Acatayma
Plantaciones Delta
Plantas Ornamentales De Colombia
Productora El Rosal
Rosaflor
Rosales De Colombia
Rosas Colombianas
Rosas Sabantilla
Rosas Tesalia
Rosas Y Flores
Rosas Y Jardines Del Tropico
Roselandia
Rosex
Sansa Flowers
Santa Helena
Santana Flowers
Sun Flowers
Tropiflora
Velez De Monchauz Y Hijos

The following firms were requested only by the petitioner, and, based on information provided, had no exports to the United States. They will receive the "all other" rate of 6.10 percent. This rate is subject to change as reviews of subsequent periods are completed.

Producer/Exporter

Achalay
Agricola Bonanza
Agricola De Occidente
Agricola Floral
Agro Imperial
Agrotabio
Arboles Azules
Bogota Flowers
Con Flowers
Epsilon-Editores
Flamingo Flowers
Flores Alcala
Flores Corinto
Flores Del Cortijo
Flores El Chircal
Flores La Macarena
Flores Los Rosales
Flores Maria Luisa
Flores Palimana
Flores Tecnicas
Flores Tenerife
Flores Tequendama
Hacienda La Embarrada
Jardines La Florida
Jardines Natalia
Las Flores
Rosas De Colombia
Rosas De Colombia
Tecniflores
Turismo El Globo

The following firms were subject to the fair value investigation. They were subject of a review request, but had no exports during the review period. They will retain the deposit rates established in the fair value investigation, as noted below.

Producer/exporter	Margin (percent)
Inversiones Paxti	83.14
Prismaflor	83.14
Royal Carnations	83.14
Universal De Flores	83.14

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Services.

Furthermore, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required on shipments of certain fresh cut flowers from Colombia by the companies under review.

For any future entries of this merchandise from a producer or exporter, other than those specified above, and unrelated to the specified firms, a cash deposit of 6.10 percent shall be required. This rate is the simple average of the weighted-average rates for the sampled group and for those firms which requested review of their exports. While we would have preferred to weight these two rates by the relative export volume or value, we had only export tonnage for the sample group, and export value for the self-requested firms. We believe a broad-based average rate, encompassing the results of all firms reviewed, is the most reliable rate to use for firms for which no request was made, and which were not participants in any prior review or the fair value investigation.

Unless changed for the final results of review, these deposit requirements will be effective for all shipments of certain fresh cut flowers from Colombia entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1989).

Dated: December 29, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-253 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-503]

Certain Iron Construction Castings From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 7, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from Canada. The review covers one manufacturer/exporter of this merchandise to the United States and the period from March 1, 1987 through February 29, 1988. We preliminarily found a dumping margin of 24.78 percent.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the margin from that presented in our preliminary results.

EFFECTIVE DATE: January 5, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Kelleher or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 32365) the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings form Canada (51 FR 17220, March 5, 1986). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of certain iron construction castings, limited to manhole covers, rings and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable during the review period as heavy castings under item number 657.0950 of the Tariff Schedules of the United States Annotated (TSUSA); and to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters, classifiable during the review period as light castings under TSUSA item number 657.0990. These articles must be of cast iron, not alloyed, and not malleable. Heavy castings are currently classifiable under Harmonized Tariff System ("HTS") items 7325.10.00.10.9 and 7325.10.00.50.0. Light castings are classifiable under HTS item 7325.10.00.50.0. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of certain Canadian iron construction castings and the period March 1, 1987 through Febraury 29, 1988.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received case and rebuttal briefs from both the respondent, Bibby Ste.-Croix Foundries Inc., ("Bibby"), and the petitioner, the Municipal Casting Fair Trade Council.

Comment 1: Petitioner argues that, in addition to its own sales, Bibby should also report sales made by Fonderie La Perle Inc., ("La Perle"), another producer/exporter of iron construction castings from Canada during the period of this review, because Bibby owned 100 percent of the stock of La Perle during the period December 1985 through January 6, 1988. Therefore, petitioner argues, the companies were related within the meaning of the antidumping law and should be treated as one corporate entity under that law.

Department's Position: The Department disagrees with the petitioner. The Department did not require Bibby to submit information regarding sales of construction castings made by La Perle during the period of review, thus treating the company as one corporate entity, because the companies in fact operated as separate entities.

The statute and the regulations do not address expressly the question of when the Department should treat related parties as one company, thus requiring a respondent to provide complete responses on behalf of its related party and resulting in the calculation of a single weighted-average margin for the two firms. When presented with this issue in other cases, the Department has considered whether the companies in fact operate as distinct entities. In addressing this concern, the Department has examined the ability of a company to manipulate its affiliate's prices and to affect its production decisions. *See, e.g.,* Granite from Spain, 53 FR 24335 (1988); Hot-Rolled Carbon Steel Plate and Hot-Rolled Carbon Steel Sheet from Brazil, 49 FR 3102 (1984).

We have concluded that in this case the two companies are separate manufacturers and, therefore, that it would not be appropriate to calculate a single, weighted-average margin for the two companies. There is no evidence in the record to indicate that Bibby's relationship with La Perle was such that either company could manipulate prices or affect production decisions of the other company. Each company had its own facilities, employees, and books. In addition, the production facilities and processes used by each company were totally different. We believe, therefore, that is would be incorrect to conclude that these entities constitute one manufacturer or exporter under the antidumping law. In addition, we note that Bibby sold its interest in La Perle prior to initiation of this review. Therefore, during this review, Bibby was not in a position to force La Perle to respond to the Department's questionnaire.

Comment 2: Petitioner disagrees with the Department's treatment of "early payment discounts" granted in the home market and on U.S. sales, and contends the Department is acting inconsistently by allowing the discount on home market sales when payment was made within seven days of the stated term of the discount. Petitioner asserts that the Department should treat cash discounts in both the United States and home market in a consistent manner, and use the terms actually given to customers in each market.

Bibby acknowledges that in some instances its customers were allowed an "early payment discount" even if payment was late. Bibby argues, however, that the Department improperly characterized the discount as an "after-sale adjustment" by disallowing the "early payment discount" in the home market where payment was made more than seven days after the stated terms. Bibby contends this is contrary to the Department's past practice where discounts were granted in the ordinary course of trade as standard business practices. Bibby emphasizes that only the discounts actually given were reported to the Department, and further asserts that, should the Department continue to disallow the "early payment discounts" for late payment transactions in the home market, the discounts should also be denied for late payment transactions in the United States.

Department's Position: We agree with the respondent and have determined to

allow the early payment discounts as reported in both the U.S. and home markets. The Department generally has treated discounts as reductions in price. Even if the terms of the discounts were not strictly adhered to for every sales transaction, the granting of the discount reflects an actual reduction in price charged by Bibby. Therefore, consistent with past practice, the Department has used the price net of discounts actually granted to arrive at both purchase price and foreign market value.

Comment 3: Bibby asserts that the Department should either accept the credit expenses as reported in its response, or, if it chooses to calculate credit expenses based on Bibby's short-term borrowing rates, use the same rates for both the U.S. and home markets. Bibby claims the reported credit expenses are based on actual borrowing costs attributable to financing receivables, and are derived by the same methodology employed by Bibby and accepted by the Department during the original investigation. Bibby further asserts that the Department acted inconsistently by improperly applying the highest bank interest rate applicable to its borrowing during the review period for all U.S. transactions, and the lowest interest rate for all home market transactions. Because there were not separate borrowing rates applicable to U.S. sales and home market sales, the rates applied should be the same for each market. The rates used should be either the actual interest rates in effect during the period or the weighted-average rate for the entire period. Finally, Bibby notes the Department inadvertently calculated the credit expense on the basis of list price in both markets rather than on the discounted price.

Department's Position: We have not accepted respondent's methodology for calculating credit as it results in an understatement of these expenses. Bibby's reported credit expenses were based on a short-term interest rate determined by dividing the amount of net interest expense attributable to receivables by the monthly average receivables during the period. This interest rate is not the same as the interest rate Bibby actually paid when borrowing from banks during the period. We do, however, agree that the interest rate used to calculate credit expenses should be the same in both the U.S. and home markets, since it was the same party that extended credit in both markets. For the final results, we have calculated credit expenses based on the actual short-term interest rates in effect during the period, as reported in Bibby's response. Also, we note that the Department's calculation or credit expense was inadvertently based on the list price rather than the discounted price, and that this has been corrected for the final results.

Comment 4: Bibby argues that adjustments for rebates made with respect to home market transactions in January and February 1988 should be allowed. The rebate programs in the home market are based on annual sales; since the annual sales volumes for 1988 were not known at the time Bibby made its original submission, the reported rebate amounts for transactions in January and February 1988 were not actual but, rather, projections based on the assumption that the customers would purchase total amounts in 1988 equal to their total purchases in 1987.

Department's Position: We disagree with respondent and have continued to disallow the claimed rebates reported on home market sales in January and February 1988. We have denied an adjustment for the January and February 1988 rebates for the final results because the actual amounts of the rebates were untimely submitted. Bibby had ample time from the date of its original submission until the completion of the preliminary results to submit the actual rebates paid on sales during these two months, but neglected to do so until after publication of the preliminary results of the review. To allow a respondent to submit actual figures after the publication of a preliminary results notice in lieu of estimates reported in its original response would be to encourage respondents to withhold information from the Department in the hope that estimates will be used to its advantage. Furthermore, we note that, in this case, actual rebates were less than originally claimed.

Comment 5: Bibby notes that the Department made certain inadvertent programming errors in its analysis of the data submitted by Bibby and that these errorts should be corrected in the Department's final results. Bibby points out that one such error was in the Department's calculation of the foreign market value of components used in simulating box prices. The Department incorrectly calculated foreign market values based on the list prices of the components which make up a box, failing to adjust for certain charges and expenses incurred. In addition, the adjustments made inadvertently failed to take into account the relative weight that each component represents in the total weight of the box.

Department's Position: We agree with respondent and acknowledge that we inadvertently calculated the foreign market values for the simulated box prices on the basis of unit list prices of components, adjusted only for credit, commissions, and selling expenses, rather than net prices. Furthermore, the adjustments for expenses that were made were not correctly weighted. For the final results, consistent with our calculations of the foreign market values for individual components, we have made the appropriate weighted adjustments for the expenses incurred by Bibby.

Comment 6: Bibby points out that in some instances the incorrect values for some of the component weights were used in the calculation.

Department's Position: We agree. This has been corrected for the final results.

Comment 7: Bibby states that the Department inadvertently disallowed the early payment discount on all transactions in the home market.

Department's Position: We agree. The relevant programming error has been corrected for the final results.

Comment 8: Bibby states that the Department inadvertently neglected to add surcharges and drop-off charges in the calculation of the U.S. price.

Department's Position: We did not add the surcharges and drop-off charges that were paid by Bibby's customers, but not included in the reported U.S. sales price. The net effect of adding the charges to the list price and then deducting them as movement charges to obtain a net price, in accordance with 19 CFR 353.41(d), would be zero.

Final Results of the Review

As a result of the comments received and the correction of certain clerical errors, we determine that the following margin exists:

Manufacturer/Exporter	Time Period	Margin (Percent)
Bibby Ste.-Croix Foundries	03/01/87–02/29/88	4.64

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required on entries of this merchandise from Bibby Ste.-Croix Foundries Inc. For any entries from a new exporter, not covered in this administrative review, whose

first shipments occurred after February 29, 1988 and who is unrelated to any reviewed firm, a cash deposit of 4.64 percent shall be required.

This deposit requirement is effective for all shipments of Canadian iron construction castings entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675a(1)) and 19 CFR 353.22.

Dated: December 21, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-255 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-048]

Certain Textiles and Textile Products From Argentina; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen garments.

EFFECTIVE DATE: January 5, 1990.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Anne D'Alauro, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 46098) its intent to revoke the countervailing duty order on certain textiles and textile products from Argentina (48 FR 53421; November 16, 1978). The Department may revoke an order if the Secretary of Commerce concludes that the order is no longer of interest to interested parties. We had not received a request for an administrative review of the order for the last four consecutive annual anniversary months.

On November 30, 1989, the Amalgamated Clothing and Textile Workers Union, petitioner, objected to our intent to revoke the order for the period January 1, 1988 through December 31, 1988. Therefore, we no longer intend to revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: December 28, 1989.

Richard W. Moreland,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 90-256 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-337-601]

Standard Carnations From Chile; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On September 20, 1989, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on standard carnations from Chile. We have now completed that review and determine the net subsidy to be 10 percent *ad valorem* during the period February 3, 1987 through December 31, 1987.

EFFECTIVE DATE: January 5, 1990.

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

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 38716) the preliminary results of its administrative review of the countervailing duty order on standard carnations from Chile (52 FR 3313; March 19, 1987). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of Chilean standard carnations. During the review period, such merchandise was classifiable under item number 192.2130 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under item numbers 0603.10.70 and 0603.10.80 of the Harmonized Tariff Schedule ("HTS"). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive. The review covers the period February 3, 1987 through December 31, 1987 and two programs.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

As a result of our review, we determine the net subsidy to be 10 percent *ad valorem* during the period February 3, 1987 through December 31, 1987.

Therefore, the Department will instruct the Customs Service to assess countervailing duties of 10 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after February 3, 1987 and exported on or before December 31, 1987.

Further, as a result of the reduction in the rate of the Simplified Drawback, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 8 percent of the f.o.b. invoice price on all shipments of standard carnations entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administarative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1674(a)(1)) and 19 CFR 355.22.

Dated: December 27, 1989.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-257 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-421-601]

Standard Chrysanthemums From the Netherlands; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On October 30, 1989, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands. We have now completed that review and determine the net subsidy to be 0.66 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.57 percent *ad valorem* for the period January 1, 1987 through December 31, 1987.

EFFECTIVE DATE: January 5, 1990.

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

SUPPLEMENTARY INFORMATION:

Background

On October 30, 1989, the Department of Commerce ("the Department") published in the Federal Register (54 FR 43977) the preliminary results of its administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands (52 FR 7646; March 12, 1987). We have now completed this administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of Dutch standard chrysanthemums. During the review period, such merchandise was classifiable under item 192.2120 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under item 0603.10.70 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period October 27, 1986 through December 31, 1987 and eight programs: (1) Natural gas provided at preferential rates; (2) aids for the creation of cooperative organizations; (3) Glasshouse Enterprises Program; (4) aids for the reduction of glass surface; (5) steam drainage systems; (6) Guarantee Fund for Agriculture; (7) Investment Incentive (WIR)—Regional Program; and (8) loans at preferential interest rates.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the net subsidy to be 0.66 percent *ad valorem* for the period October 27, 1986 through December 31, 1986, and 0.57 percent *ad valorem* for the period January 1, 1987 through December 31, 1987.

In accordance with section 705(a)(1) of the Tariff Act, the final determination in this case was extended to coincide with the antidumping final determinations on several cut flowers investigations. Because we cannot suspend liquidation for more than 120 days without the issuance of a countervailing duty order, we terminated the suspension of liquidation for entries or withdrawals made on or after Febuary 25, 1987 and before March 12, 1987, the date of publication of the countervailing duty order.

Therefore, the Department will instruct the Customs Service to assess countervailing duties of 0.66 percent of the f.o.b. invoice price on all shipments of Dutch standard chrysanthemums entered, or withdrawn from warehouse, for consumption on or after October 27, 1986 and exported on or before December 31, 1986. The Department will also instruct the Customs Service to assess countervailing duties of 0.57 percent of the f.o.b. invoice price on all shipments exported on or after January 1, 1987 and entered, or withdrawn from warehouse, for consumption on or before February 24, 1987, and entered, or withdrawn from warehouse, for consumption on or after March 12, 1987, and exported on or before December 31, 1987.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.57 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: December 27, 1989.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-258 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Harlem (Manhattan), NY

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $165,000 in Federal funds and a minimum of $29,118 in non-Federal contributions for the budget period June 1, 1990 to May 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Harlem (Manhattan), New York SMSA geographic service area bounded on the South by 110th Street; on the East by the East River; and on the North by 155th Street. The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one

evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is February 16, 1990. Applications must be postmarked on or before February 16, 1990.

ADDRESS: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, room 3720, New York, New York 10278; Area Code/Telephone Number (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina A. Sanchez, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: December 29, 1989.

William R. Fuller,

Deputy Regional Director, New York Regional Office.

[FR Doc. 90-239 Filed 1-4-90; 8:45 am]

BILLING CODE 3510-21-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 24-26 January 1990.

Time: 0830-1700 each day.

Place: Fort Sill, Oklahoma.

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on Software in the Army will meet for discussions focused on problems facing the Army in software development and to review past and ongoing efforts to improve the process. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 90-252 Filed 1-4-90; 8:45 am]

BILLING CODE 3710-08-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

The Delaware River Basin Commission will hold a public hearing on Friday, January 12, 1990 beginning at 1:00 p.m. in the Goddard Conference Room of its offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location and will include a status report on the Upper Delaware ice jam project; discussion of recreational areas included in the Comprehensive Plan; and snowmaking facilities' water use and charges.

The subject of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Holdover Project: Town of Frederica D-89-73 CP.* An application for approval of a ground water withdrawal project to supply up to 3.9 million gallons (mg)/30 days of water to the applicant's distribution system from existing Well Nos. 1, 2, 3, and 4 (Well Nos. 1 and 2 are for fire/emergency use only), and to limit the withdrawal from all wells to 3.9 mg/30 days. The project is located in the Town of Frederica, Kent County, Delaware. This application is held over from December 6, 1989.

2. *SPS Technologies D-79-88 (RENEWAL-2).* An application for the renewal of a ground water withdrawal project to supply up to 8.7 mg/30 days of water to the applicant's industrial plant from Well No. 7. Commission approval on January 30, 1985 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 8.7 mg/30 days. The project is located in Abington Township, Montgomery County and is located in the Southeastern Pennsylvania Ground Water Protected Area.

3. *Lawrenceville Water Company D-83-26 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to continue to supply water to the applicant's distribution system from four existing wells. Commission approval on August 15, 1984 was limited to three years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 21.7 mg/30 days. The project is located in Lawrence Township, Mercer County, New Jersey.

4. *Shawnee Mountain Inc. D-88-50.* An application to withdraw surface water from Shawnee Creek to serve the applicant's snowmaking process. A daily withdrawal of up to 0.3 mg is proposed during the cold weather months. Water is pumped from Shawnee Creek to 64 snowmaking guns on Shawnee Mountain. Unused water is returned to the source. The project serves the applicant's ski resort in Smithfield Township, Monroe County, Pennsylvania.

5. *Warminster Township Board of Supervisors D-88-60 CP.* An application for the withdrawal of 0.15 million gallons per day (mgd) of surface water from an unnamed intermittent stream (a tributary of Little Neshaminy Creek) for spray irrigation of a 133-acre municipal golf course, Five Ponds Golf Course, located off Worthington Drive in Warminster Township, Bucks County, Pennsylvania. The Warminster Township Municipal Authority will augment stream flow via a discharge from its 8.18 mgd treatment plant.

6. *Warminster Township Municipal Authority D-88-67 CP.* An application to divert up to 0.3 mgd of sewage treatment plant effluent via force main from the applicant's outfall line (001) to a proposed outfall (002) in order to augment streamflow to serve a spray irrigation project. The applicant's 8.18 mgd plant currently discharges to Little Neshaminy Creek approximately one mile downstream from proposed outfall,

which will discharge to an unnamed tributary of the Little Neshaminy Creek. By a separate application, the Warminster Township Board of Supervisors has requested approval to withdraw surface water at an average rate of 0.15 mgd just downstream of the proposed outfall (002) for the seasonal spray irrigation of the Five Ponds Golf Course. The project is located entirely within Warminster Township, Bucks County, Pennsylvania.

7. *Southeastern Chester County Authority D-89-17 CP.* An application for approval of a ground water withdrawal project to supply up to 5.4 mg/30 days of water to the applicant's distribution system from new Well Nos. 3, 4, 5, 6 and 8, and to limit withdrawal from all wells to 5.4 mg/30 days. The project is located in New Garden Township, Chester County, Pennsylvania.

8. *Montgomery Township Municipal Sewer Authority D-89-21 CP.* An application for a proposed wastewater treatment plant (WWTP) designed to provide tertiary treatment capacity of 0.75 mgd average monthly flow. The WWTP will serve an equivalent population of 3,774 persons and provide for processing of 0.262 mgd of industrial wastewater. The proposed plant will be located in Montgomery Township, Montgomery County, Pennsylvania, near the intersection of Route 152 and Lower State Road. The effluent will discharge to the Little Neshaminy Creek.

9. *Red Hill Water Authority D-89-52 CP.* An application for approval of the ground water withdrawal project to supply up to 1.5 mg/30 days of water to the applicant's distribution system from existing Well No. 1, and to increase the existing withdrawal limit of 4.8 mg/30 days from all wells to 6.3 mg/30 days. The project is located in Red Hill Borough, Montgomery County, and is in the Southeastern Pennsylvania Ground Water Protected Area.

10. *NGK Metals Corporation D-89-53.* An application for approval of an industrial wastewater treatment plant for treating wastewater generated by the production of beryllium-containing metal alloys. The applicant proposes to upgrade its treatment facilities and discharge, via an existing outfall, an average of 0.46 mgd of treated process wastewater and cooling water (combined with stormwater runoff) to Laurel Run, a tributary of the Schuylkill River. The project is located on Tuckerton Road (Rte 547) in Muhlenberg Township, Berks County, Pennsylvania.

11. *Peronic Enterprises D-89-80.* An application for a combined surface water and ground water withdrawal for purposes of seasonal irrigation potable-sanitary use at the Gambler Ridge Golf Course. The applicant proposes a total combined withdrawal not to exceed 8.0 mg/30 days from existing Well Nos. 1 and 2 and from two existing interconnected storage ponds, all located within the golf course. The ponds are located on an unnamed intermittent tributary of Miry Run (a tributary to Crosswicks Creek). Since water use is chiefly seasonal, the combined yearly withdrawal will not exceed a total of 27 million gallons. The project is located just east of the intersection of County Route 539 and Burlington Path Road in the Township of Upper Freehold, Monmouth County, New Jersey.

12. *Gambone Brothers Development Company D-89-83 CP.* An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's distribution system from new Well Nos. 1 and 2. The project is located in Douglass Township, Montgomery County, and is in the Southeastern Pennsylvania Ground Water Protected Area.

13. *Cranberry Hill Corporation—Stroud Water Company D-89-85 CP.* An application for approval of a ground water withdrawal project to supply up to 5.63 mg/30 days of water to the applicant's distribution system from Well Nos. 2, 3, 4, and 5, and to increase the existing withdrawal limit from all wells of 3.3 to 8.25 mg/30 days. The project is located in Stroud Township, Monroe County, Pennsylvania.

Dated: December 26, 1989.

Susan M. Weisman,

Secretary.

[FR Doc. 90-246 Filed 1-4-90; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/SW(NO)-18, for the transfer from Norway to Sweden of 4 irradiated test fuel rods containing 628 grams of uranium enriched to approximately 0.16 percent in the isotope uranium-235 and 4.3 grams of plutonium for post-irradiated examination and subsequent disposal as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 29, 1989.

Thad Grundy Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 90-292 Filed 1-4-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-111-000 et al.]

Tampa Electric Co., et al.

Electric rate, Small power production, and Interlocking Directorate filings.

Take notice that the following filings have been made with the Commission:

1. Tampa Electric Company

[Docket No. ER90-111-000]

December 21, 1989.

Take notice that on December 15, 1989, Tampa Electric Company (Tampa Electric) tendered for filing a Letter of Commitment providing for the sale by Tampa Electric to the Kissimmee Utility Authority (Kissimmee) of capacity and energy from Tampa Electric's coal-fired generating resources, at an initial maximum hourly delivery rate of 15 megawatts. The Letter of Commitment is submitted as a supplement to Service Schedule D (long-term interchange service) under the existing agreement for interchange service between Tampa Electric and Kissimmee designated at Tampa Electric's Rate Schedule FERC No. 16.

Tampa Electric proposes an effective date of January 1, 1990, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Kissimmee and the Florida Public Service Commission.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER89-649-000]

December 21, 1989.

Take notice that on December 15, 1989, Arizona Public Service Company tendered for filing a revised amended filing revising the methodology used in developing the proposed purchased power ceiling adder pursuant to Commission Staff's recommendations.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Vulcan/BN Geothermal Power Company

[Docket No. QF85-199-002]

Del Ranch, L.P.

[Docket No. QF86-727-003]

Desert Power Company

[Docket No. QF86-1043-001]

Earth Energy, Inc.

[Docket Nos. QF87-511-002 and QF89-297-001]

December 26, 1989.

On December 15, 1989, the following applicants filed with the Federal Energy Regulatory Commission (Commission) an application for recertification of facilities as qualifying small power production facilities pursuant to section 292.207 of the Commission's regulations: (1) Vulcan/BN Geothermal Power Company, 7001 Gentry Road, Calipatria, California 92233, for its Vulcan facility; (2) Del Ranch, L.P, 480 West Sinclair Road, Calipatria, California 92233, for its Del Ranch facility; (3) Desert Power Company, c/o Unocal Geothermal Division, Unocal Corporation, 1201 West 5th Street, P.O. Box 7600, Los Angeles, California 90051, for its Salton Sea Unit 3; and (4) Earth Energy, Inc., c/o Unocal Geothermal Division, Unocal Corporation, 1201 West 5th Street, P.O. Box 7600, Los Angeles, California 90051, for its Salton Sea Units 1 and 2.

The Vulcan and Del Ranch facilities are geothermal facilities located within one mile of each other in the Salton Sea Known Geothermal Resource Area of Imperial County, California. Desert Power Company and Earth Energy, Inc. own Salton Sea Units 1, 2, and 3 geothermal facilities that are also located within one mile of each other in the Salton Sea Known Geothermal Resource Area of Imperial County, California, but more than one mile from the Vulcan and Del Ranch facilities. Applicants are seeking waivers, under § 292.204(a)(3) of the Commission's regulations, of the one-mile run in order to allow the aggregate capacity of these facilities to be increased above 80 MW.

The primary energy surce of all these facilities will be heat from natural geothermal water, steam, or brine.

Comment date: Thirty days from publication in the **Federal Register** in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company (Minnesota)

Northern States Power Company (Wisconsin)

[Docket No. ER90-111-000]

December 21, 1989

Take notice that on December 15, 1989, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) jointly tendered for filing revised exhibits VII, VIII and IX to the Agreement to Coordinate Planning and Operations and Interchange Power and Energy Between Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin).

Exhibit VII sets forth the specification of the rate of return on common equity to determine the overall cost of capital. The return on common equity for calendar year 1990 is the FERC generic rate of return effective November 1, 1989. A Statement of the impact of the return on common equity on each Company has been filed.

Exhibit VIII sets forth the specification of average monthly coincident peak demands for calendar year 1990 for each of the Companies. A statement of the impacts of these coincident peak demands on each Company has been filed. These coincident peak demands were determined based upon three year data. The three year data consists of 18 months actual and 18 months projected. The change from the use of the average of the 12 monthly peak demand allocation method to the use of 36 months was approved in Docket No. ER87-279-000.

Exhibit IX sets forth a specification of depreciation rates certified by the Minnesota Public Utilities Commission and the Wisconsin Public Service Commission for NSP (Minnesota) and NSP (Wisconsin). A statement of the impact of the depreciation rates of each company has been filed.

NSP requests an effective date of January 1, 1990, for this filing.

Copies of the filing letter and revised Exhibits VII, VIII and XI have been served upon the wholesale and wheeling customers of the Companies. Copies of the filing have been mailed to the state Commissions of Michigan, Minnesota, North Dakota, South Dakota and Wisconsin.

Comment date: January 5, 1990, in accordance with Standard Paragraph E end of this notice.

5. American Electric Power Service Corporation

[Docket No. ER84-348-013]

December 21, 1989.

Take notice that in accordance with ordering Paragraph B of the Commission's Order Granting in part, and Denying in part, Rehearing issued November 3, 1989 in Docket No. ER84-348-012, American Electric Power Service Corporation (AEPSC) on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, and Ohio Power Company and AEPSC, as Agent (AEP Companies), tendered for filing on December 14, 1989, a Compliance Filing.

The purpose of the Compliance Filing is to amend an earlier Compliance Filing as directed by the Commission in its November 3, 1989 Order. The Compliance Filing involves a Transmission Agreement among the AEP Companies which provides for the equitable sharing among the parties of the cost of ownership and operation of the AEP Extra High Voltage (EHV) transmission system.

Copies of the filing were served upon the regulatory commissions in the states of Indiana, Kentucky, Michigan, Ohio, Virginia, and West Virginia, and all parties.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Power & Light Company

[Docket No. ER90-109-000]

December 21, 1989.

Take notice that on December 15, 1989, Wisconsin Power and Light Company (WP&L) tendered for filing with the Federal Energy Regulatory Commission proposed bulk power Transmission Service Schedule T-2, which provides for service to non-retail located outside of WP&L's control area.

WP&L requests expedited consideration of this filing and an effective date of December 1, 1989. Accordingly, WP&L requests waiver of the Commission's notice requirements, to the extent necessary.

WP&L states that copies of this filing have been mailed to each of the Parties identified on the Service List.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Commonwealth Edison Company

[Docket No. ER89-594-000]

December 21, 1989.

Take notice that on December 18, 1989, Wisconsin Power and Light Company (WP&L) submitted additional cost support data in response to questions raised by Commission Staff relating to the above referenced docket.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. United Illuminating Company

[Docket No. ER90-112-000]

December 26, 1989.

Take notice that on December 18, 1989, The United Illuminating Company (UI) tendered for filing a Unit Sales Agreement between UI and Boston Edison Company (BECo). The agreement provides for the sale to BECo of capacity and associated energy from UI's New Haven Harbor Station and Millstone Point Unit #3. The parties request an effective date of December 1, 1989.

Copies of this filing were mailed or delivered to BECo. UI further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Power & Light Company

[Docket No. ER90-108-000]

December 26, 1989.

Take notice that on December 14, 1989, Wisconsin Power & Light Company (WPL) tendered for filing a wholesale power agreement dated November 17, 1989, between the Rock County Electric Cooperative and WPL. WPL states that this new wholesale power agreement revises the previous agreement between the two parties which was dated August 26, 1988, and designated Rate Schedule No. 130 by the Commission.

The purpose of this new agreement is to revise the terms of service. Terms of service for this customer will be on a similar basis to the terms of service for other W-2 wholesale customers.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to the Rock County Electric Cooperative and the Wisconsin Public Service Commission.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light Company

[Docket No. ER90-117-000]

December 26, 1989.

Take notice that on December 21, 1989, PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light Company (Utah), tendered for filing, in accordance with 18 C.F.R. § 35.12 of the Commission's Rules and Regulations, an Amendment of Agreements between Utah and Moon Lake Electric Association, dated November 20, 1989, and a UPALCO Facilities Operating Agreement between Utah and Moon Lake, dated November 20, 1989.

Utah requests that the notice requirements of 18 C.F.R. § 35.3 be waived in accordance with 18 CFR 35.11 to permit the Agreements to become effective on November 20, 1989, the date of execution. Copies of this filing have been served upon Moon Lake Electric Association and the Public Service Commission of Utah.

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER90-113-000]

December 26, 1989.

Take notice that on December 18, 1989, Northeast Utilities Service Company (NUSCO) as Agent for the Connecticut Light and Power Company (CL&P) tendered for filing a Notice of Cancellation of the following rate schedule:

Purchase Agreement with respect to various gas turbine units between CL&P and the United Illuminating Company (UI), dated December 1, 1985 (CL&P Rate Schedule FERC 400) (Agreement).

Comment date: January 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

12. Pacific Gas and Electric Company

[Docket No. ER90-115-000]

December 26, 1989.

Take notice that on December 19, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing changes to Rate Schedule FERC No. 84. This Rate Schedule pertains to services that are rendered by PG&E under the agreement entitled the "Interconnection Agreement between PG&E and Northern California Power Agency, City of Alameda, City of Biggs, City of Gridley, City of Healdsburg, City of Lodi, City of Lompoc, City of Palo Alto, City of Roseville, City of Ukiah, and Plumas Sierra Rural Electric Cooperative" (Interconnection Agreement).

This filing tendered a revised Exhibit A-4 to the Interconnection Agreement. These revisions change delivery points and levels of service, but do not change the level of any rate. This filing also tendered Exhibits A-1 for 1989 and 1990. These Exhibits show no sales of capacity to NCPA and are unchanged from the 1988 Exhibit A-1.

PG&E has requested that the Commission allow the proposed change in Exhibit A-4 to become effective on February 1, 1990. PG&E has requested that the 1989 and 1990 Exhibits A-1 be allowed to become effective on January 1, 1989 and January 1, 1990, respectively.

Copies of this filing were served upon NCPA and the California Public Utilities Commission.

Comment date: January 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas & Electric Company

[Docket No. EC90-6-000]

December 26, 1989.

Take notice that Louisville Gas and Electric Company (LG&E) and Ohio Valley Transmission Corporation (Ohio Valley) tendered for filing on December 18, 1989 an application for an order authorizing a planned corporate reorganization.

LG&E is a corporation organized and existing under the laws of the Commonwealth organized and existing under the laws of the Commonwealth of Kentucky, and is engaged in producing and selling electric energy. LG&E owns 100% of the capital stock of Ohio Valley. Ohio Valley, an Indiana corporation, is also a public utility which owns and operates approximately 83 structure miles in Indiana of high voltage transmission lines, providing transmission service for LG&E between points within LG&E's system and between LG&E and neighboring utilities.

LG&E also owns 7% of the common stock of Ohio Valley Electric Corporation (OVEC), which has one wholly-owned subsidiary, Indiana-Kentucky Electric Corp. (Indiana-Kentucky). OVEC and Indiana-Kentucky were organized to supply the entire power requirements of the Department of Energy's (DOE) gaseous diffusion plant in Pike County, Ohio, north of Portsbout. OVEC owns a 1,0975,000 kilowatt generating station near Cheshire, Ohio and Indiana-Kentucky owns a 1,290,000 kilowatt generating station at Madison, Indiana. All of the electricity sold by OVEC and Indiana-Kentucky is sold either to the DOE or to the owner companies.

LG&E and Ohio Valley proposed to reorganize by causing the creation of a

holding company to be named LG&E Energy, Corp., which will become the owner of all the common stock of LG&E. Immediately prior to the creation of the holding company structure, Ohio Valley will be merged into LG&E and LG&E will reduce its ownership of OVEC from 7% to below 5%.

LG&E and Ohio Valley state that the proposed corporate reorganization is consistent with the public interest.

Comment date: January 22, 1990, in accordance with Standard Paragraph E at the end of this notice.

14. Centel Corporation

[Docket No. ER90-119-000]

December 27, 1989.

Take notice that Centel Corporation, Centel Electric—Colorado, on December 26, 1989 tendered for filing Utility Service Contract number DAAC89-89-C-0022 applicable to the transmission of power to serve the Pueblo Depot Activity, Department of the Army (DOA), in Pueblo, Colorado.

This filing is being made to change the rate that Centel charges the DOA to wheel power from the Western Area Power Administration to the Pueblo Depot Activity from the current combined demand and energy charge of $.001 per kWh to separate customer, demand and energy charges of $75 per month, $1.62 per kW-month and $.00058 per kWh, respectively. These charges reflect the increased cost of wheeling as determined by a special cost of service study. Application of these rates will result in a projected annual increased cost to the DOA of $27,637 based upon September, 1990, ending (Period II) versus September, 1989, ending (Period I) test years. Centel requests an effective date of October 1, 1989, which is contemporaneous with the effective date of the wheeling contract between the DOA and Centel and therefore requests waiver of the Commission's notice requirements. Copies of the filing were served upon the Department of the Army Contracting Officer at Tooele, Utah, the Colorado-Ute Electric Association, Inc. and the Arkansas River Power Authority.

Comment date: January 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

15. Florida Power Corporation

[Docket No. ER90-118-000]

December 27, 1989.

Take notice that on December 22, 1989, Florida Power Corporation tendered for filing three rate contracts between Florida Power and Reedy Creek Improvement District (Reedy Creek): (1) Letter of Agreement, (2) Agreement for Partial Requirements Resale Service and Transmission/Distribution Service, and (3) Contract For Interchange Service.

The Letter of Agreement, proposed to be effective September 15, 1989, establishes the rights and duties of Florida Power and Reedy Creek from September 15, 1989 (execution date of the Agreement For Partial Requirements Resale Service And Transmission/Distribution Service and the Contract For Interchange Service) and March 1, 1990 (the date on which the two agreements are to become effective).

The Agreement For Partial Requirements Resale Service And Transmission/Distribution Service, proposed to be effective March 1, 1990, is virtually identical to the partial requirements service currently provided to Florida Municipal Power Agency. The Contract For Interchange Service, and the accompanying schedules, are virtually the same rates as the interchange rates already accepted for filing by the Commission.

Accordingly to Florida Power Corporation, this filing has been served on Reedy Creek Improvement District and the Florida Public Service Commission.

Comment date: January 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

16. Minnesota Power & Light Company

[Docket No. ER90-56-000]

December 28, 1989.

Take notice that on December 18, 1989, Montana Power & Light Company (MP&L) submitted for filing additional information regarding a proposed Distribution Wheeling Service Agreement between MP&L and United Power Association that MP&L submitted for filing on November 2, 1989. The instant submittal is in response to a deficiency letter dated December 4, 1989 from the Director of the Division of Electric Power Application Review, Office of Electric Power Regulation.

Comment date: January 8, 1990, in accordance with Standard Paragraph E at the end of this notice.

17. The United Illuminating Company

[Docket No. ER90-120-000]

December 28, 1989.

Take notice that on December 26, 1989 The United Illuminating Company ("UI") tendered for filing a rate schedule entitled Wheeling Service Agreement Between The United Illuminating Company and McCallum Enterprises I Limited Partnership.

UI states that copies of this rate schedule have been mailed or delivered to the following parties:

Connecticut Department of Public Utility Control One, Central Park Plaza, New Britain, CT 06051

Northeast Utilities, 107 Selden Street, Berlin, CT 06141-0270

McCallum Enterprises I Limited Partnership, c/o McCallum Enterprises, Inc., General Partner, Edward J. McCallum, Jr., President, 805 Housatonic Avenue, P.O. Box 1780, Bridgeport, CT 06601

Grep Pepe, Esq., 541 Fairfield Avenue, Bridgeport, CT 06604

Bay Bank Boston, NA, Jacques P. Fiechter, Senior Vice President, 175 Federal Street, Boston, MA 02110

Linda Lee, Esq., Lawrence Brown, Esq., Federal Energy Regulatory Commission, Trial Staff, 825 North Capitol Street, Washington, DC 20426

UI further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: January 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

18. Florida Power & Light Company

[Docket No. ER90-122-000]

December 28, 1989.

Take notice that on December 26, 1989, Florida Power & Light Company tendered for filing a Notice of Termination of the following rate schedule:

Alternative Electric Service Agreement among FPL, Seminole Electric Cooperative, Inc., and Lee County Electric Cooperative, Inc. (FPL Rate Schedule FERC No. 83)

FPL requests that the Commission allow the termination of the Alternative Electric Service Agreement to take effect at 12:01 a.m. on January 1, 1990.

Comment date: January 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

19. PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light Company

[Docket No. ER90-123-000]

December 28, 1989.

Take notice that on December 26, 1989, PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light Company ("PacifiCorp"), tendered for filing, in accordance with 18 CFR 35.12 of the Commission's Rules and Regulations, a Long-Term Power Sales Agreement with Sierra Pacific Power Company.

PacifiCorp requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that the rate

schedule become effective on June 1, 1989 corresponding to the commencement of service under the Agreement.

Copies of this filing have been supplied to Sierra Pacific Power Company and the Public Service Commission of Nevada.

Comment date: January 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Power & Light Company

[Docket No. ER90-121-000]

December 28, 1989.

Take notice that on December 26, 1989, Wisconsin Power & Light Company (WPL) tendered for filing a wholesale power agreement dated December 2, 1989, between the Central Wisconsin Electric Cooperative and WPL. WPL states that this new wholesale power agreement revises the previous agreement between the two parties which was dated September 27, 1988, and designated Rate Schedule No. 133 by the Commission.

The purpose of this new agreement is to revise the terms of service. Terms of service for this customer will be on a similar basis to the terms of service for other W-2 wholesale customers.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to the Central Wisconsin Electric Cooperative and the Wisconsin Public Service Commission.

Comment date: January 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-214 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-407-000 et al.]

Panhandle Eastern Pipe Line Company et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Company

[Docket No. CP90-407-000]

December 21, 1989.

Take notice that on December 18, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77152-1642, filed in Docket No. CP90-407-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Gastrak Corporation (Gastrak), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 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.

Panhandle proposes to transport, on an interruptible basis, up to 10,000 Dt. equivalent of natural gas per day for Gastrak. Panhandle states that construction of faciliites would not be required to provide the proposed service.

Panhandle further states that the maximum day, average day, and annual transportation volumes would be approximately 10,000 Dt. equivalent, 10,000 Dt. equivalent and 3,650,000 Dt. equivalent respectively.

Panhandle advises that service under § 284.223(a) commenced November 1, 1989, as reported in Docket No. ST90-566.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP90-408-000]

December 21, 1989.

Take notice that on December 18, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-408-000 a request pursuant § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Union Pacific Resources (Union Pacific), a producer, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7(c) 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.

Panhandle states that pursuant to a transportation agreement dated August 29, 1989, it proposes to transport up to 50,000 dt equivalent of natural gas per day for Union Pacific. Panhandle states that it would receive the gas at specified points located in Colorado and redeliver the gas to Vessels (Pan Trans) at a specified point located in Adams County, Colorado. Panhandle estimates that the peak day and average day volumes would be 50,000 dt equivalent of natural gas and that the annual volumes would be 18,262,500 dt equivalent of natural gas. It is stated that on November 1, 1989, Panhandle initited a 120-day transportation service for Union Pacific under § 284.223(a), as reported in Docket No. ST90-562.

Panhandle further states that no facilities need be constructed to implement the service. Panhandle indicates that the service would continue on a month-to-month basis until terminated by either Panhandle or Union Pacific upon at least thirty day's prior notice. Panhandle proposes to charge rates and abide by the terms and conditions of its Rate Schedule PT.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

3. Panhandle Eastern Pipe Line Company

[Docket No. CP90-409-000]

December 21, 1989.

Take notice that on December 18, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77152-1642, filed in Docket No. CP90-409-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Kraft, Inc.—Kraft Food Ingredients (Kraft), an end user of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 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.

Panhandle proposes to transport, on a firm basis, up to 1,000 Dt. equivalent of natural gas per day for Kraft. Panhandle states that construction of facilities would not be required to provide the proposed service.

Panhandle further states that the maximum day, average day, and annual transportation volumes would be approximately 1,000 Dt. equivalent, 1,000 Dt. equivalent and 365,000 Dt. equivalent respectively.

Panhandle advises that service under Section 284.223(a) commenced November 1, 1989, as reported in Docket No. ST90-563.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Company

[Docket No. CP90-412-000]

December 21, 1989.

Take notice that on December 18, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-412-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of APX Corporation (APX), a shipper and producer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle requests authorization to transport, on an interruptible basis, up to a maximum of 50,000 dekatherms of natural gas per day for APX from receipt points located in Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma and Texas to delivery points located in Lucas and Darke Counties, Ohio. Panhandle anticipates transporting an annual volume of 17,800,000 dekatherms.

Panhandle states that the transportation of natural gas for APX commenced November 8, 1989, as reported in Docket No. ST90-976-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Panhandle in Docket No. CP86-585-000.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. Williams Natural Gas Company

[Docket No. CP90-415-000]

December 21, 1989.

Take notice that on December 18, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90-415-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act for Damson Gas Processing Corp. (Damson), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for Damson, a marketer, a gas processor on an interruptible basis, pursuant to a transportation agreement dated November 1, 1989. Williams explains that service commenced November 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-888-000. Williams further explains that the peak day quantity would be 3,000 Dth, the average day quantity would be 1,350 Dth and that the annual quantity would be 1,095,000 Dth. Williams explains that it would receive natural gas for the account of Damson at receipt points located in Oklahoma and would redeliver the gas at various delivery points in Oklahoma.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP90-417-000]

December 21, 1989.

Take notice that on December 18, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90-417-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act for GasTrak Corporation (GasTrak), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for GasTrak a marketer, on a firm basis, pursuant to a transportation agreement dated November 1, 1989. Williams explains that service commenced November 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-884-000. Williams further explains that the peak day quantity would be 375 Dth, and that the annual quantity would be 136,875 Dth. Williams explains that it would receive natural gas for the account of GasTrak at receipt points located in Oklahoma, Kansas and Wyoming and would redeliver the gas at various delivery points in Kansas and Missouri.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. Southern Natural Gas Company

[Docket No. CP90-347-000]

December 21, 1989.

Take notice that on December 6, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP90-347-000 an application under section 7(b) of the Natural Gas Act for permission and approval to abandon transportation of natural gas for Alabama Gas Corporation (Alagasco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests approval to abandon the transportation of natural gas authorized by the Commission in Docket No. CP85-278-000 on August 21, 1985. Southern states that it is authorized to transport on a firm basis up to 20,000 Mcf of gas per day purchased by Alagasco from the Black Warrior Basin of Alabama for redelivery to Alagasco at its Birmingham Area delivery points in Alabama. Southern explains that Agalgasco has significantly reduced its purchases of gas from the Black Warrior Basin and has informed Southern that it no longer needs certified transportation to move this reduced quantity of gas in addition to its existing open-access transportation services on Southern's system. Southern explains that Alagasco has requested termination of the Transportation Agreement and, as part of its restructuring of services for the future, Southern has agreed to such request. Accordingly, Southern requests authority to abandon its transportation service for Alagasco on the date a Commission order authorizing the abandonment requested herein becomes final and nonappealable, subject to a sixty-day period thereafter to correct any imbalances. Southern further states that it does not propose to abandon any facilities in conjunction with the abandonment of this transportation service.

Comment date: January 11, 1990 in accordance with Standard Paragraph F at the end of the notice.

8. Colorado Interstate Gas Company

[Docket No. CP90-391-000]

December 21, 1989.

Take notice that on December 14, 1989, Colorado Interstate Gas Company

(CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90–391–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Cominco American Incorporated (Comino), an end user, under CIG's blanket certificate issued in Docket No. CP86–589–000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG requests authorization to transport, on a firm basis, up to a maximum of 10,000 Mcf of natural gas per day for Cominco from receipt points located in Oklahoma and Kansas to delivery points located in Hutchinson County, Texas. CIG anticipates transporting an annual volume of 3,650 MMcf.

CIG states that the transportation of natural gas for Cominco commenced November 1, 1989, as reported in Docket No. ST90–632–000, for a 120-day period pursuant to § 284.223(a) of the Commission Regulations and the blanket certificate issued to CIG in Docket No. CP86–589–000, *et al.*

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

9. Williams Natural Gas Company

[Docket No. CP90–397–000]

December 21, 1989.

Take notice that on December 15, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90–397–000, a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to provide a transportation service for Stone Container Corporation-Resource and Energy Division (Stone) under WNG's blanket certificate issued in Docket No. CP86–631–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that it proposes to transport, on a firm basis, up to a maximum of 610 Dth of natural gas per day for Stone from various receipt points in the state of Kansas to various delivery points on WNG's pipeline system located in the states of Kansas and Missouri. WNG further states that it anticipates transporting 610 Dth on an average day and 222,650 on an annual basis.

WNG indicates that the transportation of natural gas for Stone commenced on November 1, 1989, as reported in Docket No. ST90–885–000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations (18 CFR 284.223(a)(1)).

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

10. Williams Natural Gas Company

[Docket No. CP90–398–000]

December 21, 1989.

Take notice that on December 15, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90–398–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86–631–000 pursuant to section 7 of the Natural Gas Act for The Kansas Power & Light Company (KP&L), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for KP&L a local distribution company, on a firm basis, pursuant to a transportation agreement dated November 1, 1989. Williams explains that service commenced November 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90–886–000. Williams further explains that the peak day quantity would be 24,893 Dth, and that the annual quantity would be 9,085,945 Dth. Williams explains that it would receive natural gas for the account of KP&L at receipt points located in Oklahoma, Kansas, Missouri, Texas and Wyoming and would redeliver the gas at various delivery points in Kansas, Nebraska, Oklahoma and Missouri.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

11. El Paso Natural Gas Company

[Docket No. CP90–402–000]

December 21, 1989.

Take notice that on December 18, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90–402–000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Hunt Oil Company (Hunt) under its blanket certificate issued in Docket No. CP88–433–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso states that it proposes to transport natural gas on behalf of Hunt between points of receipt on El Paso's system and delivery points located in Pecos, Winkler, Reeves and Midland Counties, Texas.

El Paso states that the maximum daily, average daily and annual quantities that it would transport for Hunt would be 10,300 MMBtu equivalent of natural gas, 6,180 MMBtu equivalent of natural gas and 2,255,700 MMBtu equivalent of natural gas, respectively.

El Paso indicates that in Docket No. ST90–954–000 filed with the Commission, it reported that transportation service on behalf of Hunt commenced on November 9, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

12. El Paso Natural Gas Company

[Docket No. CP90–404–000]

December 21, 1989.

Take notice that on December 18, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90–404–000 a request pursuant to § 284.223 of the Commission's Regulations under its Natural Gas Act for authorization to provide an interruptible transportation service for Phibro Distributors Corporation (Phibro) under tis blanket certificate issued in Docket No. CP88–433–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso states that it proposes to transport natural gas on behalf of Phibro between points of receipt on El Paso's system and delivery points located near Topock, Arizona and near Blythe, California.

El Paso states that the maximum daily, average daily and annual quantities that it would transport for Phibro would be 103,000 MMBtu equivalent of natural gas, 51,500 MMBtu equivalent of natural gas and 18,797,500 MMBtu equivalent of natural gas, respectively.

El Paso indicates that in Docket No. ST90–583–000 filed with the Commission, it reported that transportation service on behalf of Phibro commenced on Novbember 11, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

13. Columbia Gulf Transmission Company

[Docket No. CP90-399-000]

December 21, 1989.

Take notice that on December 15, 1989, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama, Houston, Texas 77027, filed in Docket No. CP90-399-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide firm transportation service for Tejas Power Corporation (Tejas), under Columbia Gulf's blanket transportation certificate accepted March 27, 1986, in Docket No. CP86-239-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Gulf states that it will receive the gas in Vermillion Parish, Louisiana, and redeliver the gas for the account of Tejas in Acadia Parish, Louisiana.

Columbia Gulf proposes to transport on a firm basis up to 20,000 dth equivalent of gas per day and approximately 7,300,000 dth equivalent of gas annually. Columbia Gulf states the transportation service commenced under the 120-day automatic authorization of § 284.223(b) of the Commission's Regulations on November 1, 1989, pursuant to a transportation

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

14. Equitrans, Inc.

[Docket No. CP90-378-000]

December 21, 1989.

Take notice that on December 13, 1989, Equitrans, Inc. (Equitrans), 4955 Steubenville Pike, Pittsburgh, Pennsylvania 15205, filed in docket No. CP90-378-000 a petition to amend the order issued July 31, 1986, in Docket No. CP85-876-000, et al.,[1] pursuant to section 7(c) of the Natural Gas Act, to add two new local distribution companies (LDC) to its storage service under Rate Schedule SS-3 and to provide 365 days per year injection and withdrawal periods for all Rate Schedule SS-3 customers, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Equitrans states that it currently provides contract storage to seven LDCs under its "Keystone Storage Project" under its Rate Schedule SS-3, that the total certificated storage volume under Rate Schedule SS-3 is 7.94 Bcf, and that there are separately stated charges for injection, withdrawal and storage. Further, Equitrans states that the injection period runs from April 1 to November 1 each year and the withdrawal period runs from November 1 through April 1 each year.

Equitrans proposes to add two LDCs, Columbia Gas of Pennsylvania, Inc. (CPA) and Virginia Electric and Power Company (VEPCO), to be served under Rate Schedule SS-3 with a storage volume of 3.45 Bcf and 3.5 Bcf, respectively, both for a primary term of ten years. Equitrans proposes providing Rate Schedule FTS firm transportation service to and from storage for its new customers under its Part 284 Subpart G blanket transportation certificate at a rate of 25.0 cents per Mcf, which is the same effective rate it charges under Rate Schedule STS-1 for transportation on behalf of its existing Rate Schedule SS-3 storage customers.

In addition, Equitrans requests that its certificate authority be amended to provide for year-round injection and withdrawal periods for all of its Rate Schedule SS-3 customers. Equitrans states that year-round injection-withdrawal service would enable the LDC's to pursue least reasonable costly purchasing practices and be more responsive to changing market conditions. Equitrans states that no new facilities are proposed herein.

Equitrans states that CPA requires the storage service to meet the high priority winter heating needs of its customers and that VEPCO would require the service for its new combined cycle power plant to be constructed at its Chesterfield Generating Facility. Equitrans states that the new storage service would have no adverse impact on supplies or capacity needed to serve its existing customers and would benefit those customers by recovering a part of Equitrans' overall cost of service.

Comment date: January 11, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

15. Williams Natural Gas Company

[Docket No. CP90-414-000]

December 21, 1989.

Take notice that on December 18, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90-414-000 a request pursuant to §§157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide transportation for Texaco Gas Marketing, Inc. (Texaco) under WNG's blanket certificate issued in Docket No. CP86-631-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

NWG requests authorization to transport, on an interruptible basis, up to a maximum of 3,200 Dth of natural gas per day for Texaco from various receipt points in Kansas and Oklahoma, to various delivery points on WNG's pipeline system located in Kansas and Missouri. WNG anticipates transporting 3,200 Dth on an average day and 1,168,000 Dth on an annual basis.

WNG states that the transportation of natural gas for Texaco commenced on November 1, 1988, as reported in Docket No. ST90-883-000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to WNG in Docket No. CP86-631-000. WNG proposes to continue this service in accordance with §§ 284.221 and 284.233 of the Commission's Regulations.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

16. El Paso Natural Gas Company

[Docket No. CP90-403-000]

December 21, 1989.

Take notice that on December 18, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request at Docket No. CP90-403-000, pursuant to §§157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service for Hadson Gas Systems, Inc. (Hadson), a gas marketer, under its blanket certificate issued at Docket No. CP88-433-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request for authorization on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated November 3, 1989, El Paso requests authority to transport up to 2,060 MMBtu of natural gas per day for Hadson. El Paso states that the agreement provides for it to receive the gas at various existing points of receipt along its system and to redeliver it to various existing points of delivery in New Mexico. Hadson has informed El Paso that it expects to have only 1,030 MMBtu transported on an average day and, based thereon, El Paso estimates that 375,950 MMBtu would be transported annually. El Paso advises that the transportation service commenced on November 1, 1989, as reported at Docket No. ST90-584-000.

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[1] 36 FERC ¶61,147 (1986).

pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

17. Williams Natural Gas Company

[Docket No. CP90-416-000]

December 21, 1989.

Take notice that on December 18, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90-416-000 a request pursuant to §§157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to provide a transportation service for Continental Natural Gas, Inc. (Continental), a marketer under WNG's blanket certificate issued in Docket No. CP86-631-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that it proposes to transport, on a firm basis, up to a maximum of 540 Dth of natural gas per day for Continental from various receipt points in the states of Kansas and Oklahoma to various delivery points on WNG's pipeline system located in the state of Missouri. WNG further states that it anticipates transporting 100 Dth on an average day and 36,500 Dth on an annual basis.

WNG indicates that the transportation of natural gas for Stone commenced on November 1, 1989, as reported in Docket No. ST90-887-000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations (18 CFR § 284.223(a)(1)).

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

18. CNG Transmission Corporation

[Docket No. CP90-392-000]

December 22, 1989.

Take notice that on December 14, 1989, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26302-2450, filed a request with the Commission in Docket No. CP90-392-000 pursuant to §157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for Direct Gas Supply transportation (Direct Gas) and Entrade Corporation (Entrade), natural gas marketers, under the blanket certificate issued in Docket No. CP86-311-000 pursuant to section 7(c) of the NGA, all as more fully set forth in the request which is open to public inspection.

CNG proposes an interruptible transporatation service of up to 25,000 dekatherms on peak days, 289 dekatherms on average days, and 105,485 dekatherms annually for Direct Gas. CNG would receive gas for Direct Gas' account at various receipt points on in pipeline system in New York, Pennsylvania, and West Virginia, and deliver gas to East Ohio Gas Company for Direct Gas' account. CNG states that is commenced transporting natural gas for Direct Gas on November 7, 1989, under §284.233(a) of the Regulations, as reported in Docket No. ST90-626.

CNG also proposes in interruptible transportation service of up to 100,000 dekatherms on peak days, 363 dekatherms on average days, and 132,495 dekatherms annually for Entrade. CNG would receive gas for Entrade's account at various receipt points on it pipeline system in New York, Pennsylvania, and West Virginia, and deliver gas to the New York State Electric and Gas Corporation for Entrade's account. CNG states that it commenced transporting natural gas for Entrade on November 8, 1989, under 284.223(a) of the Regulations, as reported in Docket No. ST90-625.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

19. Panhandle Eastern Pipe Line Company

[Docket No. CP90-394-000]

December 22, 1989.

Take notice that on December 15, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP-90-394-000 an application pursuant to section 79(b) of the Natural Gas Act for permission and approval to abandon an interruptible transporation service provided by Panhandle for FMC Corporation (FMC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that it was authorized to provide the transportation service for FMC in the East LaBarge area of Sweetwater County, Wyoming, pursuant to the certificate issued in Docket No. CP77-383 (Phase II). Panhandles further states that it has relesed or terminated gas purchases in areas remote to its mainline facilities, including the East LaBarge area. Panhandle avers that it has negotiated the sale of its East LaBarge gas supply facilities, which were also used to transport gas for FMC, to Home Petroleum Corporation (Home). Panhandle asserts that Home and FMC have entered into a transportation agreement whereby Home will continue to provide transportation service for FMC.

Comment date: January 12, 1990, in accordance with Standard Paragraph F at the end of this notice.

20. ANR Pipeline company

[Docket No. CP90-401-000]

December 22, 1989.

Take notice that on December 15, 1989, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP90-401-000 a request pursuant to §157.205 of the Commission's Regulations under the Natural gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Hadson Gas Systems, Inc. (Hadson), under the authorization 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 would perform the proposed interruptible transportation service for Hadson, pursuant to a transportation agreement dated June 6, 1989. The term of the transportation agreement is for an initial period of 120 days and thereafter until June 30, 1991, and shall continue in effect month-to-month thereafter unless terminated upon 30 days prior written notice. ANR proposes to transport on a peak day up to 200,000 dekatherm; on an average day up to 200,000 dekatherm; and on an annual basis 73,000,000 dekatherm of natural gas for Hadson. ANR states that it would receive the gas at existing points of receipt in Oklahoma, Louisiana, Texas, and Kansas and the offshore Louisiana and Texas gathering areas and redeliver the gas for the account of Hadson at an existing interconnections located in Illinois. It is alleged that Hadson would pay ANR the effective rate contained in ANR's rate schedule ITS. ANR avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. ANR commenced such self-implementing service on October 18, 1989, as reported in Docket No. ST90-520-000.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

21. El Paso Natural Gas Company

[Docket No. CP90-405-000]

December 22, 1989.

Take notice that on December 18, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP90-405-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Salt River Project Agricultural Improvement and Power District (Salt River), a shipper of natural gas, under El Paso's blanket certificate issued in Docket No. CP88-433-000 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.

El Paso states that transportation service for Meridian Oil Hydrocarbons, Inc. (MOHI) began on February 1, 1986, under part 284, subpart B of the Commission's Regulations, as reported in Docket No. ST86-1034-000, pursuant to a transportation agreement dated February 1, 1986. El Paso asserts that MOHI has assigned its rights to the transportation agreement to Salt River. El Paso and Salt River now desire to continue the transportation service under part 284, subpart G of the Commission's Regulations.

El Paso proposes to transport up to 172,937 MMBtu of natural gas equivalent per day on an interruptible basis for Salt River pursuant to a transportation agreement dated January 1, 1989, between El Paso and Salt River. El Paso would receive the gas at any point of receipt on its system and redeliver equivalent volumes to various delivery points in Maricopa County, Arizona.

El Paso states that the estimated daily and annual quantities would be 103,000 MMBtu and 37,595,000 MMBtu, respectively.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

22. ANR Pipeline Company

[Docket No. CP90-419-000]

December 22, 1989.

Take notice that on December 19, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-419-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of American Central Gas Marketing Company (American Central), a marketer, under its blanket authorization 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 would perform the proposed interruptible transportation service for American Central, pursuant to an interruptible transportation service agreement dated September 14, 1989. The transportation agreement is effective for a term until 120 days from the day of initial deliveries, and thereafter until September 30, 1991, and month to month thereafter until terminated by either party on thirty days written notice. ANR proposes to transport approximately 50,000 dth natural gas on a peak and average day; and on an annual basis 18,250,000 dth of natural gas for American Central. ANR proposes to receive the subject gas at existing points of receipt located in the states of Kansas, Louisiana, Offshore Louisiana, Oklahoma, Texas and Offshore Texas. ANR states that it will redelivered the gas for the account of American Central at the existing interconnection with Texas Eastern Transmission Corporation in section 18 (T1N-R2W), Orange County, Indiana. ANR states that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. ANR commenced such self-implementing service on November 1, 1989, as reported in Docket No. ST90-900-000.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

23. ANR Pipeline Company

[Docket No. CP90-421-000]

December 22, 1989.

Take notice that on December 19, 1989, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-421-000 an application pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authorization to provide interruptible transportation service for PSI, Inc. (PSI), a marketer of gas, pursuant to ANR's blanket transportation certificate issued July 25, 1988, in Docket No. CP88-532-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that it will receive the gas at various supply sources in the offshore areas of Louisiana and Texas and the states of Oklahoma, Louisiana, Texas and Kansas and deliver the gas for the account of PSI in the State of Indiana.

ANR proposes to transport up to 100,000 dt of gas on a peak and average day and approximately 36,500,000 dt of gas annually. ANR states that the transportation commenced on November 1, 1989, pursuant to the 120-day automatic authorization under § 284.223 of the Commission's Regulations under the terms of a transportation agreement dated September 25, 1989. ANR notified the Commission of the transportation service in Docket No. ST90-901-000.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

24. ANR Pipeline Company

[Docket No. CP90-423-000]

December 22, 1989.

Take notice that on December 19, 1989, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP90-423-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Conoco, Inc. (Conoco), under the authorization 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 would perform the proposed interruptible transportation service for Conoco, pursuant to a transportation agreement dated August 16, 1989. The term of the transportation agreement is for an initial period of 120 days and thereafter until August 31, 1991, and shall continue in effect month-to-month thereafter unless terminated upon 30 days prior written notice. ANR proposes to transport on a peak day up to 450 dekatherm; on an average day up to 450 dekatherm; and on an annual basis 164,000 dekatherm of natural gas for Conoco. ANR states that it would receive the gas at existing points of receipt in Louisiana and the offshore Louisiana gathering areas and redeliver the gas for the account of Conoco at existing interconnections located in Michigan. It is alleged that Conoco would pay ANR the effective rate contained in ANR's rate schedule ITS. ANR avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's regulations. ANR commenced such self-implementing service on November 1, 1989, as reported in Docket No. ST90-905-000.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

25. Transcontinental Gas Pipe Line

[Docket No. CP90-424-000]

December 22, 1989.

Take notice that on December 20, 1989, Transcontinental Gas Pipeline Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-424-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-328-000 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.

Transco proposes to transport natural gas on an interruptible basis for Transco Energy Marketing Company (Temco). Transco explains that service commenced October 29, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-999. Transco explains that the peak day quantity would be 200,000 dt, the average daily quantity would be 100,000 dt, and that the annual quantity would be 36,500,000 dt. Transco explains that it would receive natural gas for Temco's account at existing receipt points in onshore and offshore Louisiana and would redeliver the gas at existing delivery points in onshore and offshore Louisiana.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

26. ANR Pipeline Company

[Docket No. CP90-429-000]

December 22, 1989.

Take notice that on December 20, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-429-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.205 and 284.223) for authorization to transport gas on an interruptible basis for Shell Gas Trading Company (Shell) 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 states that pursuant to an agreement dated October 19, 1989, it proposes to transport up to 60,000 dt equivalent of natural gas per day for Shell. ANR states it would receive the gas at specified points located in offshore Louisiana and redeliver the gas at specified points located in onshore Louisiana. ANR estimates that the peak day and average day volumes would be 60,000 dt equivalent of natural gas and that the annual volumes would be 21,900,000 dt equivalent of natural gas. It is stated that ANR initiated a 120-day transportation service for Shell on November 2, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-897-000.

ANR states that it would require no new facilities to implement the service. It is indicated that the primary term of the agreement expires on October 31, 1990, but that the service would continue on a month-to-month basis until terminated by thirty days written notice by either party. ANR proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

27. Tennessee Gas Pipeline Company

[Docket No. CP90-433-000]

December 22, 1989.

Take notice that on December 20, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-433-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Allied Signal Inc. (Allied), and end-user, under Tennessee's blanket certificate issued in Docket No. CP87-115-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee requests authorization to transport, on an firm basis, up to a maximum of 25,000 dekatherms of natural gas per day for Allied from receipt points located in Texas to a point of delivery located in West Virginia. Tennessee anticipates transporting an annual volume of 9,125,000 dekatherms.

Tennessee states that the transportation of natural gas for Allied commenced November 4, 1989, as reported in Docket No. ST90-924-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Tennessee in Docket No. CP87-115-000.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

28. Texas Gas Transmission Corporation

[Docket No. CP90-434-000]

December 22, 1989.

Take notice that on December 20, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-434-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Soldiers and Sailors Memorial Hospital (Memorial Hospital), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 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.

Texas Gas proposes to transport on an interruptible basis up to 500 MMBtu of natural gas on a peak day, 100 MMBtu on an average day and 36,500 MMBtu on an annual basis for Memorial Hospital. Texas Gas states that it would perform the transportation service for Memorial Hospital under Texas Gas' Rate Schedule IT. Texas Gas indicates that it would transport the gas from numerous specified receipt points to a delivery point locted in Warren County, Ohio.

It is explained that the service commenced November 2, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-446. Texas Gas indicates that no new facilities would be necessary to provide the subject service.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

29. Texas Gas Transmission Corporation

[Docket No. CP90-436-000]

December 22, 1989.

Take notice that on December 20, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-436-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Bishop Pipeline Corporation (Bishop), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 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.

Texas Gas proposes to transport on an interruptible basis up to 50,000 MMBtu of natural gas on a peak day, 15,000 MMBtu on an average day and 5,475,000 MMBtu on an annual basis for Bishop. Texas Gas states that it would perform the transportation service for Bishop under Texas Gas' Rate Schedule IT. Texas Gas indicates that Bishop has identified the recipients of the gas as City of Brownsville, Haywood Company, Lydall, Inc., Charms Company and Florida Steel.

It is explained that the service commenced November 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-475. Texas Gas indicates that no new facilities would be necessary to provide the subject service.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

30. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90-438-000]

December 22, 1989.

Take notice that on December 20, 1989, Transcontinental Gas Pipeline Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-438-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco proposes to transport natural gas on an interruptible basis for Coastal Gas Marketing Company (Coastal). Transco explains that service commenced October 20, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-1000. Transco explains that the peak day quantity would be 1,400,000 dt, the average daily quantity would be 75,000 dt, and that the annual quantity would be 27,375,000 dt. Transco explains that it would receive natural gas for Coastal's account at existing receipt points in Offshore Texas and Louisiana and would redeliver the gas at existing delivery points in Offshore Texas and Louisiana.

Comment date: February 5, 1990, in accordance with Standard Paragraph G at the end of this notice.

31. ANR Pipeline Company

[Docket No. CP90-400-000]

December 26, 1989.

Take notice that on December 15, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-400-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Entrade Corporation (Entrade), a marketer of natural gas, under its 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 on file with the Commission and open to public inspection.

ANR states that it would receive the gas at existing points of receipt in Louisiana, Oklahoma, Texas, and Kansas and the offshore Louisiana and Texas gathering areas and would redeliver the gas for the account of Entrade at existing interconnections located in Wisconsin and Michigan.

ANR further states that the maximum daily and average daily quantities that it would transport for Entrade would be 50,000 dt equivalent of natural gas and that the annual quantities would be 18,250,000 dt equivalent of natural gas.

ANR indicates that in a filing made with the Commission in Docket No. ST90-518-000 it reported that transportation service for commenced on October 18, 1989 under the 120-day automatic authorization provisions of Section 284.223(a).

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

32. Panhandle Eastern Pipe Line Company

[Docket No. CP90-411-000]

December 26, 1989.

Take notice that on December 18, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP90-411-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas on an interruptible basis, under its blanket certificate issued in Docket No. CP86-585-000, a maximum of 100,000 Dt. per day on behalf of Dyco Gas Marketing (Dyco) a shipper, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle indicates that service commenced November 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-565 and estimates the volumes transported to be 100,000 Dt. on peak day and average day, and 30,000,000 Dt. on an annual basis. It is asserted that Panhandle would receive gas from various existing points of receipt in Colorado, Kansas, Oklahoma and Texas, and then would transport and redeliver such gas, less fuel and unaccounted line loss gas, to Haven Pool in Reno County, Kansas.

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

33. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP90-426-000]

December 26, 1989.

Take notice that on December 20, 1989, Arkla Energy Resources, a Division of Arkla, Inc. (AER), 525 Milam Street, Shreveport, Louisiana 71151, filed in Docket No. CP90-426-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on a firm basis on behalf of Exxon Corporation (Exxon) under its blanket certificate issued in Docket No. CP88-820-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

AER states that the maximum daily, average daily and annual quantities that it would transport on behalf of Exxon would be 10,493 MMBtu equivalent of natural gas, 10,493 MMBtu equivalent of natural gas and 3,829,945 MMBtu equivalent of natural gas, respectively.

AER indicates that in Docket No. ST90-477-000, filed with the Commission, it reported that transportation service on behalf of Exxon commenced on November 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

34. Northern Natural Gas Company Division of Enron Corp.

[Docket No. CP90-396-000]

December 26, 1989.

Take notice that on December 15, 1989, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-396-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of Meridian Oil Trading, Inc. (Meridian), a

marketer of natural gas, under its blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern further states that the maximum daily average and annual quantities that it would transport on behalf of Meridian would be 50,000 MMBtu equivalent of natural gas, 37,500 MMBtu equivalent of natural gas and 18,250,000 MMBtu equivalent of natural gas, respectively.

Northern indicates that in Docket No. ST90-730-000, filed with the Commission on November 29, 1989, it reported that transportation service on behalf of Meridian had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

35. Natural Gas Pipeline Company of America

[Docket No. CP90-385-000]

December 26, 1989.

Take notice that on December 14, 1989, Natural Gas Pipleine Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in docket No. CP90-385-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Sonat Marketing Company (Sonat), under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural requests authorization to transport, on an interruptible basis, up to a maximum of 5,000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provision's of Natural's Rate Schedule ITS) for Sonat from receipt points located in Texas to delivery points located in Illinois. Natural anticipates transporting, on an average day 5,000 MMBtu and an annual volume of 1,825,000 MMBtu.

Natural states that the traponsportation of natural gas for Sonat commenced November 1, 1989, as reported in Docket No. ST90-826-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP86-582-000.

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

36. United Gas Pipe Line Company

[Docket No. CP90-359-000]

December 26, 1989.

Take notice that on December 11, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-359-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation on behalf of Texaco Gas Marketing Inc. (Texaco) under United's blanket certificate issued in Docket No. CP-88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization to transport, on an interruptible basis, up to a meximum of 41,200 MMBtu of natural gas per day for Texaco from receipt points located in Texas to delivery points located in Louisiana, Texas and Mississippi. United anticipates transporting, on an average day 41,200 MMBtu and an annual volume of 15,038,000 MMBtu.

United states that the transportation of natural gas for Texaco commenced November 9, 1989, as reported in Docket No. ST90-704-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to United in Docket No. CP88-6-000.

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

37. ANR Pipeline Company

[Docket No. CP90-432-000]

December 26, 1989.

Take notice that on December 20, 1989, ANR Pipeline Company (ANR) 500 Rennaissance Center, Detroit, Michigan 48243 filed in Docket No. CP90-432-000, a request purusant to § 157.205 and 284-223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas, under its blanket certificate issued in Docket No. CP88-532-000, for Paulstra CRC Corporation (Paulstra), all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR indicates that service commenced November 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-726-000 and estiamtes the volume transported to be 300 dth on a peak day and average day and 109,500 annually.

ANR asserts that construction of facilities will not be requried.

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

38. Transwestern Pipeline Company

[Docket No. CP90-413-000]

December 26, 1989.

Take notice that on December 18, 1989, Transwestern Pipeline Company (Transwestern), P.O. Box 1188, Houston, Texas, 77251-1188, filed in Docket No. CP90-413-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas on an interruptible basis, under its blanket certificate issued in Docket No. CP88-133-000, a maximum of 50,000 MMBtu per day on behalf of Williams Gas Marketing Company (Williams Gas) a marketer, all as more full set forth in the request on file with the Commission and open to public inspection.

Transwestern indicates that service commenced November 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-701-000 and estimates the volumes transported to be 50,000 MMBtu on a peak day, 37,500 MMBtu on an average day and 18,250 Dt. on an annual basis. Transwestern asserts that construction of facilities will not be required.

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

39. Consolidated Edison Company of New York, Inc.

[Docket No. ER90-114-000]

December 26, 1989.

Take notice that on December 19, 1989, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing, as an initial rate schedule, a long-term (to March 31, 2011) agreement to sell firm winter capacity and energy to Power Authority of the State of New York (the Authority) for resale to Hydro-Quebec. The agreement provides for a capacity charge starting at $20.82 per killowatt per winter period and an energy charge based upon Con Edison's incremental fuel and maintenance costs.

Con Edison requests waiver of the notice requirements of § 35.3 of the Commission's regulations so that the Rate Schedule can be made effective as of November 1, 1989.

Con Edison states that a copy ot this filing has been served by mail upon the Authority.

Comment date: January 8, 1990, in accordance with the first subparagraph

Standard Paragraph F at the end of this notice.

40. ANR Pipeline Company

[Docket No. CP90-413-000]

December 26, 1989.

Take notice that on December 20, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-431-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act and the Natural Gas Policy Act for authorization to provide a transportation service for SEMCO Energy Services, Inc. (SEMCO) under ANR's blanket certificate issued in Docket No. CP88-532-000 on July 25, 1988, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the commission and open to public inspection.

ANR states that the transportation service will be performed pursuant to a transportation agreement dated September 18, 1989, wherein ANR proposes to transport up to 802 dt of natural gas on a firm basis for SEMCO. ANR states that it would receive the gas at ANR's Existing points of receipt located in the State of Louisiana and the offshore Louisiana gathering area and redeliver the gas for the account of SEMCO at existing interconnections located in the State of Michigan.

ANR further states that the estimated average day and annual quantities would be 802 dt and 293,000 dt, respectively. ANR states that service under § 284.223(a) for SEMCO commenced on October 19, 1989, as reported in Docket No. ST90-517-000.

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

41. Sea Robin Pipeline Company

[Docket No. CP90-439-000]

December 26, 1989.

Take notice that on December 21, 1989, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP90-439-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authorization to provide interruptible transportation service for Trans Marketing Houston, Inc. (Trans Marketing), a marketer of natural gas, under Sea Robin's blanket transportation certificate issued in Docket No. CP88-824-000 on October 21, 1988, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin proposes, pursuant to a transportation agreement dated August 20, 1989, to transport natural gas from Trans Marketing from various receipt points located offshore Louisiana, and redeliver the gas for the account of Trans Marketing at various points in Vermillion Parish, Louisiana. Sea Robin proposes to transport on a peak and average day 206,000 MMBtu equivalent of gas and approximately 75,190,000 MMBtu annually. Sea Robin states that service under § 284.223(a) of the Commission's Regulations commenced on November 1, 1989, as reported in Docket No. ST90-880-000.

Comment date: February 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

42. ANR Pipe Line Company

[Docket No. CP90-442-000]

December 27, 1989.

Take notice that on December 19, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-422-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Xebec Gas Co. (Xebec), 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 2,500 dt equivalent of natural gas per day for Xebec. ANR states that construction of facilities would not be required to provide the proposed service.

ANR further states that the maximum day, average day, and annual transportation volumes would be approximately 2,500 dt equivalent, 2,500 dt equivalent and 912,500 dt equivalent respectively.

ANR advises that service under § 284.223(a) commenced November 1, 1989, as reported in Docket No. ST90-898.

Comment date: February 12, 1990, in accordance with Standard Paragraph G at the end of this notice.

43. MGTC, Inc.

[Docket No. CP90-393-000]

December 27, 1989.

Take notice that on December 14, 1989, MGTC, Inc. (MGTC), 10701 Melody Drive, Denver, Colorado 80234, filed in Docket No. CP90-393 an application pursuant to § 284.224 of the Commission's Regulations for a blanket certificate of public covenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

MGTC requests authority to engage in the sale, transportation, or assignment of natural gas that is subject to the Commission's jurisdiction under the Natural Gas Act (MGA) to the same extent that, and in the same manner that, intrastate pipeline are authorized to engage in such activities by subpart C, D and E of part 284 of the Commission's Regulations. MGTC states that it recently discovered that, although its facilities are located entirely within Wyoming, it is not technically an intrastate pipeline as defined by the Natural Gas Policy Act of 1978 (NGPA) but rather is a Hinshaw pipeline exempt from the Commission's jurisdiction under section 1(c) of the NGA. MGTC alleges that it previously performed self-implementing NGPA Section 311 transportation activities in order to transport casinghead gas from wells and processing plants to interstate pipeline for further transportation and/or sale. Due to its Hinshaw status, MGTC has now discovered that it requires certificate authorization in order to perform section 311 services on the same basis. MGTC contends that it now seeks a blanket certificate in order to continue such transportation on a self-implementing basis.

MGTC also requests that the Commission issue an immediate temporary section 7(c) certificate authorization to enable MGTC to perform certain transportation transactions previously presumed to be authorized on a self implementing basis pursuant to section 311 of the NGPA, pending receipt of permanent blanket certificate authority.

MGTC states that its would comply with the conditions of paragraph (e) of § 284.224 of the Commission's Regulations. MGTC contends that the methodology used in calculating transportation rates is the same as that set forth in MGTC's approved rate case before the Wyoming Public Service Commission in Docket No. 8601 Sub 43.

Comment date: January 17, 1990, in accordance with Standard Paragraph F at the end of this notice.

44. Natural Gas Pipeline Company of America

[Docket No. CP90-443-000]

December 27, 1989.

Take notice that on December 22, 1989, Natural Gas Pipeline Company of America (Natural) 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-443-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of National Steel Company (National Steel), under the authorization issued in Docket No. CP86-582-000 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.

Natural would perform the proposed interruptible transportation service for National Steel, pursuant to an interruptible transportation service agreement dated September 18, 1989 (Ref. No. IGP-2041). The term of the transportation agreement is for a primary term ending October 31, 1990, and shall continue month to month thereafter unless cancelled by five days prior notice by either party. Natural proposes to transport on a peak day up to 40,000 MMBtu; on an average day up to 15,000 MMBtu; and on an annual basis 5,475,000 MMBtu of natural gas for National Steel. Natural alleges that consistent with its Rate Schedule ITS, National Steel may request and Natural may agree to accept additional quantities of natural gas as overrun gas. Natural states that it would receive the gas at existing points of receipt in Texas, Louisiana, Oklahoma, New Mexico, Illinois, Kansas, Iowa, and offshore Louisiana and Texas and redeliver the gas for the account of National Steel at existing delivery points located in Illinois, Oklahoma, Arkansas, offshore Louisiana and Texas. It is alleged that National Steel would pay Natural the effective rate contained in Natural's rate schedule ITS. Natural avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. Natural commenced such self-implementing service on November 2, 1989, as reported in Docket No. ST90-917-000.

Comment date: February 12, 1990, in accordance with Standard Paragraph G at the end of this notice.

45. Texas Gas Transmission Corporation

[Docket No. CP90-435-000]

December 27, 1989.

Take notice that on December 20, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in docket No. CP90-435-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Phibro Energy, Inc. (Phibro) under the blanket certificate issued in Docket No. CP88-686-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas requests authorization to transport on a peak day up to 37,500 MMBtu of natural gas for Phibro, with an estimated average daily quantity of 10,000 MMBtu. On an annual basis, Phibro estimates a volume of 3,650,000 MMBtu.

Transportation service for Phibro commenced November 4, 1989, under the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-644-000.

Comment date: February 12, 1990, in accordance with Standard Paragraph G at the end of this notice.

46. ANR Pipe Line Company

[Docket No. CP90-420-000]

December 27, 1989.

Take notice that on December 19, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-420-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of the City of Grand Rapids Waste Water Treatment Plant (Grand Rapids), 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 a firm basis, up to 120 dt equivalent of natural gas per day for Grand Rapids. ANR states that construction of facilities would not be required to provide the proposed service.

ANR further states that the maximum day, average day, and annual transportation volumes would be approximately 120 dt equivalent, 120 dt equivalent and 43,800 dt equivalent respectively.

ANR advises that service under § 284.223(a) commenced November 1, 1989, as reported in Docket No. ST90-903.

Comment date: February 12, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rule of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter fines that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the 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 therefore,

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.

[FR Doc. 90-215 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-65-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 29, 1989.

On December 21, 1989, CNG Transmission Corporation ("CNG") tendered for filing, as part of its FERC Gas Tariff Original Volume No. 1, the following tariff sheets:

First Revised Sheet No. 53, Superseding Original Sheet No. 53

First Revised Sheet No. 87, Superseding Original Sheet No. 87

CNG states that above-referenced tariff sheets are being filed to establish D-1 overrun penalties for authorized overruns in excess of 102%. Such overruns will be subject to a penalty of $10.00 per dekatherm.

CNG has requested that the Commission permit this filing to become effective as of January 1, 1990.

CNG states that copies of the filing were served upon all of its Volume No. 1 customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practices and Procedures (18 CFR 385.211 and 385.214). All such motions or protests shall be filed on or before January 5, 1990. 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. 90-297 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-4-51-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Purchased Gas Adjustment Clause Provisions

December 29, 1989.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on December 26, 1989 tendered for filing Fourth Revised Substitute Twenty-Fifth Revised Sheet Nos. 57(i) and 57(ii) and Third Revised Substitute Eleventh Revised Sheet No. 57(v) to its FERC Gas Tariff, First Revised Volume No. 1.

The above tariff sheets reflected PGA rates for the months of February, March and April 1990 pursuant to the Quarterly PGA filing requirements of § 154.304(a)(2) of the Commission's Regulations.

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. All such petitions or protests should be filed on or before January 5, 1990. 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-298 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 29, 1989

Take notice that on December 27, 1989, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective January 1, 1990.

FERC Gas Tariff, First Revised Volume No. 1

3rd Substitute 14th Revised 37th Revised Sheet No. 8

FERC Gas Tariff, Original Volume No. 2

2nd Substitute 13th Revised 59th Revised Sheet No. 128

Reason for Filing

The above-referenced tariff sheets are being filed to reflect an increase in FGTs jurisdictional rates due to an increase in its average cost of gas purchased from that reflected in its Quarterly PGA filing, Docket No. TQ90-1-34-000 effective November 1, 1989.

FGT states that the effect of the purchased gas cost increase being filed represents an increase of 1.920 cents/therm for Rate Schedules G and I and .55 cents/Mcf for Rate Schedule T-3.

In order to effectuate the proposed Out-of-Cycle PGA increase, FGT has requested such Commission waivers as may be necessary to approve its filing effective January 1, 1990.

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 5, 1990. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-299 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-547-005]

Enron Gas Marketing, Inc.; Application To Amend a Blanket Certificate With Pregranted Abandonment

December 29, 1989.

Take notice that on December 27, 1989, Enron Gas Marketing, Inc. (Enron) of P. O. box 1188, Houston, Texas 77251-1188, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its blanket certificate with pregranted abandonment previously issued by the Commission in Docket No. CI87-547-000 to authorize the sale for resale in interstate commerce of Canadian gas which it will purchase from Natgas (U.S.) Inc. (Natgas). Natgas was granted authorization on Decmeber 21, 1989 in Docket No. CI89-348-001 to resell

Canadian gas which it purchases from Northwest Alaskan Pipeline Company. Enron also requests authorization to resell this gas without price restriction, and requests expedited authorization in order to enable it to resell gas purchased from Natgas which already has resale authorization. The application is on file with the Commission and open for public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period of 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 8, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Enron to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 90-308 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 29, 1989.

Take notice that on December 27, 1989, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective February 1, 1990.

FERC Gas Tariff, First Revised Volume No. 1

15th Revised 37th Revised Sheet No. 8

FERC Gas Tariff, Original Volume No. 2

14th Revised 59th Revised Sheet No. 128

Reason for Filing

The above-referenced tariff sheets are being filed in accordance with Section 154.308 of the Commission's Regulations and pursuant to Section 15 (Purchased Gas Adjustment Clause) of FGT's FERC Gas Tariff, First Revised Volume No. 1 to reflect a decrease in FGT's jurisdictional rates due to a decrease in its average cost of gas purchased from that reflected in its Out-of-Cycle PGA filing, Docket No. TQ90-2-34-000 effective January 1, 1990.

FGT states that the effect of the purchased gas cost increase being filed represents a decrease of .023 cents/therm for Rate Schedules G and I and .01 cents/Mcf for Rate Schedule T-3 as measured against FGT's Out-of-Cycle PGA filing in Docket No. TQ90-2-34-000 effective January 1, 1990.

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, First Revised Volume No. 1, Original Volume No. 2 and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 5, 1990. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-300 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-42-005]

Northwest Alaskan Pipeline Co.; Tariff Changes

December 29, 1989.

Take notice that on December 19, 1989, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, tendered for filing in Docket No. RP90-42-001 Substitute Twenty-Fifth Revised Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2 (Primary Case).

Northwest Alaskan states that it is amending its application in Docket No. RP90-42-000 in order to reflect a significant decrease in demand charges for the period January—June 1990 from its Canadian supplier, Pan-Alberta Gas Ltd., as the result of recent regulatory action in Canada. Consequently, Northwest Alaskan withdraws Twenty-Fifth Revised Sheet No. 5 and Alternate Twenty-Fifth Revised Sheet No. 5 and replaces them with Substitute Twenty-Fifth Revised Sheet No. 5 and Substitute Alternate Twenty-Fifth Revised Sheet No. 5 respectively. Furthermore, Northwest Alaskan requests that the Commission, pursuant to section 154.51 of its regulations, provide any waivers necessary so that Substitute Twenty-Fifth Revised Sheet No. 5 or Substitute Alternate Twenty-Fifth Revised Sheet No. 5, as the case may be, will become effective January 1, 1990.

Along with the substitute tariff sheets, Northwest states that it is submitting revised supporting schedules as well as all supporting schedules from the original filing which have not changed.

Northwest Alaskan states that a copy of this filing, including the tariff sheets and attached schedules, has been served on Northwest Alaskan's customers and all parties on the official service list.

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. All such motions or protests should be filed on or before January 5, 1990. 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. 90-302 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-66-000]

Tennessee Gas Pipeline Co.; Filing

December 29, 1989.

Take notice on December 22, 1989, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets in Second Revised Volume No. 1 of its FERC Gas Tariff to be effective on January 21, 1990:

Substitute Third Revised Sheet No. 206
- Second Substitute First Revised Sheet No. 208
- Second Substitute First Revised Sheet No. 208B
- Second Substitute Second Revised Sheet No. 249
- Second Revised Sheet No. 346

Tennessee states that the purpose of this filing is (1) to provide for additional notice to schedule gas to be transported in capacity constrained areas, (2) to further define when scheduling and imbalance penalties will not apply and when Tennessee will waive such penalties, (3) to modify the Transportation Request Form to simplify Tennessee's ability to obtain certain information necessary for reporting requirements under the Commission's regulations and (4) to amend the term section in the form of service agreement for transportation pursuant to Rate Schedule FT-A.

Tennessee states that copies of its filing are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas, and have been mailed to all affected customers.

Any person desiring to be heard or to protest said filing file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 5, 1990. 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. 90-303 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-64-000]

Texas Gas Transmission Corp.; Tariff Filing

December 29, 1989.

Take notice that on December 21, 1989 Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 14H
Original Sheet No. 14I
Original Sheet No. 14J
Original Sheet No. 14K
Third Revised Sheet No. 126
Original Sheet No. 127
Original Sheet No. 128

Texas Gas states that this filing is made to reflect the allocation to its jurisdictional sales customers of United Gas Pipe Line Company's (United) fixed take-or-pay charges in Docket No. RP89-147 originating from Sea Robin Pipe Line Company in Docket No. RP89-141. The filing is consistent with Order No. 500 which allows "downstream piplines . . . to allocate the fixed take-or-pay charges of upstream pipelines on the same basis as that upon which they are incurred, namely, cumulative purchase deficiencies." Texas Gas reserves the right to revise the filing as necessary to reflect any modifications made by the Commission or as required by any appellate court, and Texas Gas has requested any necessary waivers so that the filing takes effect January 1, 1990.

Copies of this filing have been served upon Texas Gas's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 2.11 and 2.14 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 5, 1990. 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. 90-304 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TF90-4-2-000]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Adjustment Provisions

December 28, 1989.

Take notice that on December 22, 1989, East Tennessee Natural Gas Company (East Tennessee) is filing ten copies of Fourth Revised Fifty-Second Revised Sheet No. 4 to be effective December 23, 1989, reflecting an Interim Purchased Gas Rate Adjustment (PGA) pursuant to Section 22.4 of the General Terms and Conditions of Volume 1 of its FERC Gas Tariff. This Interim PGA reflects an increase in the gas rates of $.2623 as compared to those reflected in the Interim PGA (effective December 1, 1989) filed in Docket No. TF90-3-2-000. This adjustment is based upon the projected availability and cost of spot gas supplies. East Tennessee states that the Current Purchased Gas Cost Adjustment is <$.0.

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. All such motions or protests should be filed on or before January 4, 1990. 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-216 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-4-000]

Granite State Gas Transmission, Inc.; Filing

December 28, 1989.

Take notice that on December 21, 1989, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing with the Commission the following tariff sheet in its FERC Gas Tariff, First Revised Volume No. 1, for effectiveness on January 1, 1990.

Third Revised Sheet No. 7-C

According to Granite State, the purpose of the instant filing is to comply with the Commission's order issued September 28, 1988 in Docket No. RP88-242-000 relating to the procedures pursuant to which Granite State will recover from its customers the fixed take-or-pay charges billed by Tennesssee Gas Pipeline Company under the provisions of Order No. 500. Granite State proposes to track Tennessee's revised take-or-pay charges filed on November 30, 1989 in Docket No. RP88-191-016.

Granite State further states that copies of its filing were served upon its customers, Bay State Gas Company and Northern Utilities, Inc., and the regulatory commissions of the States of

Maine, Massachusetts and New Hampshire.

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 Sections 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 January 4, 1990. 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. 90-217 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-3-51-000 and TM90-2-51-001]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 28, 1989.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on December 21, 1989 tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1.

Item 1:

First Revised Volume No. 1

First Revised Substitute First Revised Twenty-Fifth Revised Sheet No. 57(i)
First Revised Substitute First Revised Twenty-Fifth Revised Sheet No. 57(ii)
First Revised First Revised Substitute Eleventh Revised Sheet No. 57(v)

Item 2:

First Revised Volume No. 1

Substitute Second Revised Substitute Twenty-Fifth Revised Sheet No. 57(i)
Substitute Second Revised Substitute Twenty-Fifth Revised Sheet No. 57(ii)
Substitute Second Revised Substitute Eleventh Revised Sheet No. 57(v)

The tariff sheets in Item 1 reflected revised current PGA rates for the months of December, 1989 and January, 1990. The tariff sheets were filed as an Out of Cycle PGA to reflect the latest estimated gas cost as provided to Great Lakes by its sole supplier of natural gas, TransCanada PipeLines Limited ("TransCanada"). These pricing arrangements were the result of contract renegotiated between each of Great Lakes' resale customers and the supplier.

The tariff sheets in Item 2 were filed to reflect the proper GRI charge effective Janaury 1, 1990.

Great Lakes requested waiver of the notice requirements of the provisions of § 154.309 of the Commission's Regulations and any other necessary waivers so as to permit the above tariff sheets to become effective as requested, in order to implement the gas pricing agreements between Great Lakes' resale customers and TransCanada on a timely basis.

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. All such petitions or protests should be filed on or before January 4, 1990. 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. 90-218 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-37-007 and RP89-62-007]

High Island Offshore System Modification to Compliance Filing

December 28, 1989.

Take notice that on December 22, 1989, High Island Offshore System (HIOS) filed the following substitute tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Second Substitute First Revised Sheet No. 17
Substitute Original Sheet No. 32A
Substitute First Revised Sheet No. 48
Substitute Original Sheet No. 48A

HIOS states that the substitute tariff sheets modify and supersede certain tariff sheets submitted with HIOS' compliance tariff filing of November 16, 1989. HIOS states that the tariff sheets have been modified to increase the notice period for correction of unauthorized daily overruns from eight hours to 24 hours, and to clarify the distinction between authorized and unauthorized overruns.

HIOS states that copies of this filing are being served on all parties to this proceeding.

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 Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 (1989)). All such protests should be filed on or before January 4, 1990. 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 invervene 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. 90-219 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TF90-5-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 28, 1989.

Take notice that on December 22, 1989, Midwestern Gas Transmission Company (Midwestern) filed Fifth Revised Second Revised Sheet No. 5 to its FERC Gas Tariff, to be effective December 23, 1989.

Midwestern states that the Purchased Gas Cost Rate Adjustment reflects an increase from the previously effective interim adjustment to the gas rate and no change from the gas rate filed by Midwestern in its quarterly PGA in Docket No. TQ90-1-5, resulting in a Current Rate after Adjustment of $2.7729 per dkt. This adjustment, reflecting an average commodity cost of gas (sales WACOG) of $2.7380 per dkt, is based upon the cost of supplies from Tennessee Gas Pipeline Company, and reflects the interruption of spot supplies.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 4, 1990. 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-220 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-9-000]

Tennessee Gas Pipeline Co.; Rate Change Under Tariff Rate Adjustment Provisions

December 28, 1989.

Take notice that on December 26, 1989, Tennessee Gas Pipeline Company (Tennessee) tendered out-of-cycle for filing the following tariff sheets to its FERC Gas Tariff to be effective January 1, 1990:

Second Revised Volume No. 1.

Twentieth Revised Sheet No. 21

Original Volume No. 2.

Substitute Sixteenth Revised Sheet No. 5
Substitute Fifteenth Revised Sheet No. 6

Tennessee states that the purpose of the revisions listed is to reflect various PGA rate adjustments pursuant to sections 2, 3, and 5 of Article XXIII of the General Terms and Conditions of Tennessee's Tariff.

Tennessee states that the total change in the Tennessee Gas Rate from the last scheduled PGS is $.1677 per dth consisting of a Current Purchased Gas Rate Adjustment of $.3275 per dth and a Surcharge for Amortizing Unrecovered Purchase Gas Costs consisting of Unrecovered Purchase Gas Costs in the deferral period ending August 31, 1989 and transferred unamortized Unrecovered Purchase Gas Costs from the amortization period ending December 31, 1989 of $.5166 per dth to be effective from January 1, 1990 through December 31, 1990.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 4, 1990. 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-221 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-5-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 29, 1989.

Take notice that on December 22, 1989, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective February 1, 1990.

Seventh Revised Sheet No. 71-A, Page 1 of 3
Seventh Revised Sheet No. 71-A, Page 2 of 3
Seventh Revised Sheet No. 71-A, Page 3 of 3
Eighth Revised Sheet No. 71-B, Page 1 of 2
Eighth Revised Sheet No. 71-B, Page 2 of 2
Third Revised Sheet No. 71-D
Seventh Revised Sheet No. 72-A, Page 1 of 7
Seventh Revised Sheet No. 72-A, Page 2 of 7
Seventh Revised Sheet No. 72-A, Page 3 of 7
Seventh Revised Sheet No. 72-A, Page 4 of 7
Seventh Revised Sheet No. 72-A, Page 5 of 7
Seventh Revised Sheet No. 72-A, Page 6 of 7
Seventh Revised Sheet No. 72-A, Page 7 of 7
Eighth Revised Sheet No. 72-B, Page 1 of 4
Eighth Revised Sheet No. 71-B, Page 2 of 4
Eighth Revised Sheet No. 71-B, Page 3 of 4
Eighth Revised Sheet No. 71-B, Page 4 of 4
Fourth Revised Sheet No. 72-D

National states that the purpose of this filing is to update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of section 20 of the General Terms and Conditions to National's FERC Gas Tariff, First Revised Volume No. 1. National further states that its pipeline-suppliers which have received approval to bill take-or-pay charges to National are: Columbia Gas Transmission Corporation, CNG Transmission Corporation, Texas Eastern Transmission Corporation, Transcontinental Gas Pipeline Corporation, and Tennessee Gas Pipeline Company.

Copies of National's filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 5, 1990. 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. 90-301 Filed 1-4-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3703-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 18, 1989 through December 22, 1989 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. DS-COE-L39045-AK, Rating EC2, Chignik Small Boat Harbor, Quarry Site Selection and Construction, Anchorage Bay, AK.

Summary

EPA's concerns are based on the potential for adverse effects resulting from quarry operation. Additional information and clarification is needed to fully describe the alternatives, whether the site-specific environmental reviews would be conducted in accordance with NEPA, and the

effectiveness of the mitigation measures listed in the draft supplemental EIS.

ERP No. D-USA-E11023-MS, Rating EC2, Camp Shelby Annual Training Facilities, Construction, Implementation, Forrest, Perry, and Greene Counties, MS.

Summary

EPA has identified certain elements of the proposed facility upgrades and operational actions at Camp Shelby, which can be modified in order to more fully protect the environment, including impacts beyond the boundaries of the Shelby reservations. The final EIS should provide the additional information requested.

Dated: January 2, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-306 Filed 1-4-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3703-1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed December 25, 1989 Through December 29, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890361, Final, FHW, NB, Van Dorn Street Connection, NB-2/10th Street to US-77/West Bypass, Construction, Funding, City of Lincoln, Lancaster County, NB, Due: February 5, 1990, Contact: Philip E. Barnes (402) 437-5521.

EIS No. 890362, FSuppl, NRC, TX, Units 1 and 2, Licensing, Installation of Severe-Accident-Mitigation Design Features, Somervall County, TX, Due: February 5, 1990, Contact: Christopher I. Grimes (301) 492-3298.

EIS No. 890363, Final, FHW, MN, US TH-169/Cross Range Expressway Improvement, US TH-2 in Grand Rapids to MN TH-65 in Pengilly, 404 Permit, Funding, Itasca County, MN, Due: February 5, 1990, Contact: Lawrence J. Brown (612) 290-3239.

EIS No. 890364, Draft, EPA, NC, Durham-Eno River Wastewater treatment Facility Expansion, Durham and Orange Counties, NC, Due: February 26, 1990, Contact: Heinz J. Mueller (404) 347-3776.

EIS No. 890365, Draft, BLM, AZ, Safford District Land and Resource Management Plan, Implementation, Graham, Greenlee, Cochise, Pinal, Pima and Gila Counties, AZ, Due: April 6, 1990, Contact: Steve Knox (602) 428-4040.

EIS No. 890366, Draft, AFS, UT, Strawberry Ridge Timber Sale and Road Reconstruction, Implementation, Dixie National Forest, Cedar City Range District, Kane County, UT, Due: February 20, 1990, Contact: Ronald S. Wilson (801) 586-4462.

EIS No. 890367, Draft, IBR, CA, Lake Berryessa Reservoir Area Management Plan, Land and Water Management, Implementation, Napa County, CA, Due: March 28, 1990, Contact: Ronald Brockman (916) 978-5313.

EIS No. 890368, FSuppl, FHW, UT, US 189 Construction Improvements, Utah Valley to Heber Valley Project, US 189 Widening and Realignment, UT 52 to US 40, Funding and 404 Permit, Utah and Wasatch Counties, UT, Due: February 5, 1990, Contact: Duncan Silver (801) 524-5141.

EIS No. 890369, Final, AFS, WA, Okanogan National Forest, Land and Resource Management Plan, Implementation, Okanogan, Skagit, Chelan and Whatcom Counties, WA, Due: February 5, 1990, Contact: Michael C. Johnson (509) 422-2704.

EIS No. 890370, Draft, FAA, OH, Toledo Express Airport Expansion, Airport Layout Plan, Approval and Funding, Lucas County, OH, Due: February 20, 1990, Contact: Leslie S. Haener (313) 942-3341.

Dated: January 2, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-307 Filed 1-4-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11986). A similar notice listing all currently certified laboratories will be published *bi-monthly* (every other month) and updated to include laboratories which subsequently apply and complete the certification process. If any listed laboratory finals to maintain its certification, it will be omitted from updated lists until such time as it is restored to full certification under the Guidelines. This list includes seven laboratories certified since the November 1, 1989 Federal Register Notice.

FOR FURTHER INFORMATION CONTACT: Drug Testing Section, Division of Applied Research (formerly the Office of Workplace Initiatives), National Institute on Drug Abuse, Room 9-A-53, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies", sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a bimonthly performance testing program plus periodic, on-site inspections. In accordance with Subpart C of the Guidelines, the following laboratories meet the standards set forth in the Guidelines:

(Submitted for publication in the **Federal Register** on January 4, 1990)

American BioTest Laboratories, Inc.,
3350 Scott Boulevard, Building 15,
Santa Clara, CA 95054,
408-727-5525

American Medical Laboratories,
11091 Main Street,
P.O. Box 188,
Fairfax, VA 22030,
703-691-9100

Associated Regional and University Pathologists, Inc. (ARUP),
500 Chipeta Way,
Salt Lake City, UT 84108,
801-583-2787

Bio-Analytical Technologies,
2356 North Lincoln Avenue,
Chicago, IL 60614,
312-880-6900

Cedars Medical Center,
Department of Pathology,
1400 Northwest 12th Avenue,
Miami, FL 33136,
305-325-5810

Center For Human Toxicology,
417 Wakara Way, Rm. 290,
University Research Park,
Salt Lake City, UT 84108,
801-581-5117

Chem-Bio Corporation,
140 E. Ryan Road,
Oak Creek, WI 53154,
800-365-3840
Clinical Reference Lab,
11850 West 85th Street,
Lanexa, KS 66214,
800-445-6917
CompuChem Laboratories, Inc.,
Western Division,
600 West North Market Boulevard,
Sacramento, CA 95834,
916-923-0840,
(name changed: formerly ChemWest Analytical Laboratories, Inc.)
ComputChem Laboratories, Inc.,
3308 Chapel Hill/Nelson Hwy.,
P.O. Box 12652,
Research Triangle Park, NC 27709,
919-549-8263
DataChem, Inc.,
960 West LeVoy Drive,
Salt Lake City, UT 84123,
801-266-7700
Doctors and Physicians Laboratory,
801 E. Dixie Avenue,
Leesburg, FL 32748,
904-787-9006
DrugScan, Inc.,
1119 Mearns Road,
P.O. Box 2969,
Warminster, PA 18974,
215-674-9310
ElSohly Laboratories, Inc., 1215-½ Jackson Avenue, Oxford, MS 38655, 601-236-2609
Environmental Health Research & Testing Inc., 1075 South 13th Street, Birmingham, AL 35205-9998, 205-934-0985
General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608-267-6267
Harris Medical Laboratory, 1401 Pennsylvania Avenue, P.O. Box 2981, Fort Worth, TX 76104, 817-878-5600
Laboratory of Pathology of Seattle, Inc., 1229 Madison Street, Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206-386-2672
Laboratory Specialist, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504-392-7961
Laboratory Specialists, Inc., P.O. Box 4350, Woodland Hills, CA 91365, 800-331-8670, (name changed: formerly Abused Drug Laboratories)
Med Arts Lab, 5419 South Western, Oklahoma City, OK 73109, 800-251-0089 ext. 433, (name changed: formerly Med Arts/South Community Hospital)
MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901-795-1515
MedTox Laboratories, Inc., 402 West County Road D, St. Paul, MN 55112, 612-636-7466
Mental Health Complex Laboratories, 9455 Watertown Plank Road, Milwaukee, WI 53226, 414-257-7439
Methodist Medical Center, 221 North East Glen Oak Avenue, Peoria, IL 61636, 309-672-4928
MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 312-595-3888
MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608 201-393-5000
National Center for Forensic Science (A Division of Maryland Medical Laboratory, Inc.), 1901 Sulphur Spring Road, Baltimore, MD 21277, 301-247-9100, (name changed: Formerly Maryland Medical Laboratory, Inc.)
National Psychopharmacology Lab, Inc., 9320 Park West Boulevard, Knoxville, TN 37923, 800-251-9492/615-690-8101
Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 619-694-5050/800-446-4728, (name changed: formerly Nichols Institute)
Northwest Toxicology, Inc, 1141, East 3900 South Salt Lake City, UT 84124, 800-322-3361
PDLA, Inc., 100 Corporate Court, South Plainfield, NJ 07080, 201-769-8500
PharmChem Laboratories, Inc., 1505-A O'Brien Drive Menlo Park, CA 94025, 800-446-5177/415-328-6200
Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619-279-2600
Roche Biomedical Laboratories, 6370 Wilcox Road, Dublin, OH 43017, 614-889-1601
Roche Biomedical Laboratories, Inc., 1801 First Avenue South, Birmingham, AL 35233, 205-581-3537
Roche Biomedical Laboratories, Inc., 1447 York Court, Burlington, NC 27216, 919-584-5171
SmithKline Bio-Science Laboratories, 2201 W. Campbell Park Drive, Chicago, IL 60612, 313-885-2010, (name changed: formerly International Toxicology Laboratories, Inc.)
SmithKline BioScience Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301, (name changed: formerly International Clinical Laboratories)
SmithKline Bio-Science Laboratories, 400 Egypt road, Norristown, PA 19403, 800-523-5447
SmithKline Bio-Science Laboratories, 1777 Montreal Circle, Tucker, GA 30084, 404-934-9205
South Bend Medical Foundation, Inc., 530 North Lafayette Blvd., South Bend, IN 46601, 219-234-4176
Southgate Medical Laboratory, Inc., 21100 Southgate Park Boulevard, Cleveland, OH 44137, 800-338-0166
St Anthony Hospital (Toxicology Laboratory), 1000 North Lee Street, P.O. Box 205, Oklahoma City, OK 73102, 405-272-7052

Charles R. Schuster,
Director, National Institute on Drug Abuse.

[FR Doc 90-376 Filed 1-4-90; 8:45 am]

BILLING CODE 4160-20-M

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication on December 8, 1989.

(For a copy of the package, call the FSA, Reports Clearance Officer on 202-252-5604.)

Quarterly Report of Collections—0970-0013—The information collected is used to calculate grants awards. It also enable Office of Child Support Enforcement (OCSE) to comply with section 452 of the Act to compile accurate and detailed information on the total amount of collections made by the States for recordkeeping purposes and as required for the Annual Report to Congress.

Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 4; Average Burden per Response: 8 hours; Estimated Annual Burden: 1,728 hours.

OMB Desk Clearance Officer: Justin Kopca.

Consideration will be given to comments and suggestions received within 60 days of publication. Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: December 27, 1989.

Sylvia E. Vela,
Deputy Associate Administrator, Office of Management and Information Systems, FSA.

[FR Doc. 90-174 Filed 1-4-90; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 89N-0528]

Drug Export; Etidronate Disodium Tablet Granulation, 400 MG Etidronate Disodium Tablets, USP 400 MG

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Norwich Eaton Pharmaceuticals, Inc., has filed an application requesting approval for the export of the human drug Etidronate Disodium tablet granulation, 400 mg to France, and Etidronate Disodium tablets, USP 400 mg to France, Belgium, and The Netherlands.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Mary F. Cooper, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The drug export provision in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Norwich Eaton Pharmaceuticals, Inc., P.O. Box 191, Norwich, NY 13815-0191, has filed an application requesting approval for the export of the drug Etidronate Disodium tablet granulation, 400 mg to France, and Etidronate Disodium tablets, USP 400 mg to France, Belgium, and The Netherlands. In cyclical treatments with calcium, the product is used for the prevention and treatment of bone loss due to osteoporosis in post-menopausal women, resulting in reduced frequency of fracture. The application was received and filed in the Center for Drug Evaluation and Research on December 1, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by January 5, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: December 19, 1989.

Sammie R. Young,

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

[FR Doc. 90-264 Filed 1-4-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; System of Records

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, called "Pennsylvania Medicaid/Medicare Duplicate Paid Claims", HHS/HCFA/ROIII No. 09-70-0529. We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine uses" portion of the system be published for comment, HCFA invites comments on all portions of this notice.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on January 2, 1990. The new system of records, including routine uses will become effective on or before March 6, 1990 unless HCFA receives comments which require alteration to the system.

ADDRESS: The public should address comments to Richard A. DeMeo, HCFA Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room G-M-1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Salvatore Vitale, Systems and Contracting, Health Care Financing Administration, Room 3450, 3535 Market Street, Philadelphia, Pennsylvania 19101, 215-596-6025.

SUPPLEMENTARY INFORMATION: Providers rendering medical services to dually eligible recipients must first submit their bill or claims to Medicare for payment. Then for any portion of the claims not paid by Medicare (i.e. deductibles and coinsurance), the providers can submit the claims to Pennsylvania's Department of Public Welfare (DPW) which is the Commonwealth's designated Medicaid Agency. DPW processes the claim through an automated claims processing system known as the Medicaid Management Information System (MMIS), and determines whether to pay the coinsurance and deductibles. In some instances DPW may be erroneously duplicating the payments made by Medicare if it is unaware of a recipient's Medicare eligibility.

HCFA proposes to initiate a new system of records collecting data under the authority of section 1903(u) of the Social Security Act. Section 1903(r)(4)(a) of the Act mandates that HCFA conduct a Systems Performance Review (SPR) of each MMIS at least once every three years. The SPR, is HCFA's vehicle to improve the effectiveness and efficiency of the Medicaid program by assuring that claims processing and information retrieval systems used by the program meet minimum operational performance standards. While the SPR is HCFA's principal vehicle for ensuring optimal

levels of system performance, Regional Offices are authorized under the State Medicaid Manual, § 11420.8, to utilize, in addition to the SPR, other oversight and remedial mechanisms, such as focused reviews. The proposed review, will measure the incidence of erroneous Medicaid payments in greater scope and detail than is possible using the minimum evaluative steps in the standard SPR protocol. The proposed review will be conducted under the warrant of the SPR.

The purpose of the review is to ascertain if Medicaid has made duplicate payaments on claims submitted by providers for Medicaid/Medicare dually eligible recipients. In addition, the purpose of the review is to calculate the amount of the Medicaid overpayments made to each provider who received full payment from both Medicaid and Medicare for covered services.

In order to complete these objectives, the HCFA Regional Office will obtain the Medicaid eligibility files from Pennsylvania and determine the recipients eligible for Medicaid from October 1, 1988 through December 31, 1989. The records of the Medicaid eligibles will then be compared against the Medicare eligibility files in the HCFA Data Center, to determine which recipients were dually eligible for the time period noted above. The history files of Medicaid claims paid from January 1, 1989 through December 31, 1989 for those found dually eligible will be compared to the history files of Medicare claims paid for the same period. This process will determine whether any claims were paid by both Medicare and Medicaid. Since we are proposing to etablish this system of records in accordance with the requirements and principles of the Privacy Act, we do not anticipate that it will have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of individuals for "routine uses"—that is, disclosures that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for administering the Medicaid program for which we are responsible. We anticipate that disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: December 29, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

09-70-0529

SYSTEM NAME:

Pennsylvania Medicaid/Medicare Duplicate Paid Claims, HHS/HCFA/ROIII.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Contact System Manager for name of contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicaid/Medicare dually eligible recipients in Pennsylvania.

CATEGORIES OF RECORDS IN THE SYSTEM:

Recipient eligibility dates to Medicaid and Medicare (possibly three distinct periods), name, address, social security number (SSN), age, claim number, date service initiated, date service terminated, type of claim (procedure code), provider number and Medicaid eligibility number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1903(u) of the Social Security Act (42 USC 1396b(u)) was enacted by section 133 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. Number 97-248. Implementing regulations are at CFR 431.800.

PURPOSE OF THE SYSTEM:

The purpose of the review is to ascertain if Medicaid has made duplicate payments on claims submitted by providers for Medicare/Medicaid dually eligible recipients. In addition, the purpose is to calculate the amount of the Medicaid overpayments made to each provider who received full payment from both Medicaid and Medicare for covered services. This focused review will measure the incidence of erroneous Medicaid payments in greater scope and detail than is possible using the minimum evaluative steps in the standard Systems Performance Review (SPR).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures may be made:

1. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating Automatic Data Processing (ADP) software.

Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

2. To a congressional office from the record of an individual in response to an inquiry received at the request of an individual from the congressional office.

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

a. HHS, or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof, where HHS determines that the litigation is likely to affect HHS or any of its components;

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or other party is relevant and necessary to the litigation and would help in the effective representation of the government party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. To a individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained.

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in an individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk to the privacy interests of the individual that an additional exposure of the record might bring; and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical

safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another research project, under these same conditions, and with written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law.

d. Secure a written statement attesting to the recipient's understanding of and willingness to abide by these provisions.

5. To a agency of a State Government, or established by State law, for purposes of determining, evaluating and assessing cost, effectiveness, and the quality of health care services provided in the State, if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the data were provided, collected, or obtained;

b. Establishes that the data are exempt from disclosure under the State and/or local Freedom of Information Act;

c. Determines that the purpose for which the disclosure is to be made;

(1) Cannot reasonably be accomplished unless the data are provided in an individually identifiable form;

(2) Is of sufficient importance to warrant the effect and risk to the privacy interests of the individual that additional exposure of the record might bring, and;

(3) There is reasonable probability that the objective for the use would be accomplished; and

d. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the request, unless the recipient presents an adequate justification for retaining such information;

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another project under the same conditions, and with written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the project, if information that would enable project subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law; and

(4) Secures a written statement attesting to the recipient's understanding of and willingness to abide by these provisions. The recipient must agree to the following:

(a) Not to use the data for purposes that are not related to the evaluation of cost, quality, and effectiveness of care;

(b) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that beneficiaries could be identified (i.e., the data must not be beneficiary-specific and must be aggregated to a level when no data cells have ten or fewer beneficiaries); and

(c) To submit a copy of any aggregation of the data intended for publication to HCFA for approval prior to publication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Storage will be on paper and magnetic media.

RETRIEVABILITY:

Information will be retrieved by recipient's name, social security number or unique identifier given by HCFA or the contractor.

SAFEGUARDS:

HCFA will maintain all records in appropriate files accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, if required, HCFA and/or the contractor will initiate automated data processing (ADP) system security procedures required by HHS Information Resource Management Manual, Part 6, ADP Systems Security (e.g., use of passwords), and the National Bureau of Standards Federal Information Processing Standards.

RETENTION AND DISPOSAL:

Hard copy records and magnetic media will be maintained. Disposal occurs seven years from the date of the last action on the case.

SYSTEM MANAGER AND ADDRESS:

Regional Administrator, Health Care Financing Administration, Post Office Box 7760, Philadelphia, Pennsylvania 19104.

NOTIFICATION PROCEDURE:

To determine if a record exists write to the System Manager at the address indicated above. Specify name, address and the social security number of the beneficiary.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the System Manager above, and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete or not current), and be sure to provide supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7).)

RECORD SOURCE CATEGORIES:

Medicaid and Medicare eligibility files, paid claims history files, and the Health Insurance Master File.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 90-173 Filed 1-4-90; 8:45 am]
BILLING CODE 4120-03-M

Health Resources and Services Administration

Program Announcement and Proposed Review Criteria for Allied Health Project Grants

The Health Resources and Services Administration (HRSA), announces acceptance of applications for Fiscal Year 1990 Allied Health Project Grants. This grant program is authorized under section 796(a), title VII, of the Public Health Service Act, as amended by the Health Professions Reauthorization Act

of 1988, Public Law 100–607.

Applications will be supplied only upon request. Comments are invited on the proposed review criteria stated below.

Approximately $726,000.00 is available to award 7 to 10 competitive grants.

Section 796(a) authorizes the award of grants for the costs of planning, developing, establishing, operating, and evaluating projects:

(1) For improving and strengthening the effectiveness of allied health administration, program directors, faculty, and clinical faculty;

(2) For improving and expanding program enrollments in those professions in greatest demand and whose services are most needed by the elderly;

(3) For promoting the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly through interdisciplinary training programs;

(4) For emphasizing innovative models to link allied health clinical practice, education and research;

(5) For adding and strengthening curriculum units in allied health programs to include knowledge and practice concerning prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics; and

(6) For the recruitment of individuals into allied health professions including projects for:

(A) The identification and recruitment of highly qualified individuals, including the provision of educational and work experiences for recruits at the secondary and collegiate levels;

(B) The identification and recruitment of minority and disadvantaged students, including the provision of remedial and tutorial services prior and subsequent to admission, the provision of work-study programs for secondary students, and recruitment activities directed toward primary school students; and

(C) The coordination and improvement of recruitment efforts among official and voluntary agencies and institutions, including official departments of education, at the city, county, and State, or regional level.

Grants will be awarded on a competitive basis.

Eligible Applicants

To be eligible for a grant, an applicant must be a school, university or other public or nonprofit private educational entity which provides for allied health personnel education and training.

Proposed Review Criteria

The HRSA proposes to review applications based on an analysis of the following factors:

• The extent to which the proposed project meets the legislative purpose;

• The background and reationale for the proposed project;

• The extent to which the project contains clearly stated realistic and achievable objectives;

• The extent to which the project contains a methodology which is integrated and compatible with project objectives, including collaborative arrangements and feasible workplans;

• The evaluation plans and procedures for program and trainees, if involved;

• The administrative and management capability of the applicant to carry out the proposed project, including institutional infrastructure and resources;

• The extent to which the budget justification is complete, cost-effective and includes cost-sharing, when applicable; and

• Whether there is an institutional plan and commitment for self-sufficiency when Federal support ends.

Interested persons are invited to comment on the proposed review criteria. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the Fiscal Year 1990 award cycle, this comment period has been reduced to 30 days. All comments received on or before February 5, 1990 will be considered before the final review criteria is established. No funds will be allocated or final selections made until a final notice is published stating whether the final review criteria will be applied.

Written comments should be addressed to: Acting Director, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–101, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Associated and Dental Health Professions, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted), between the hours of 8:30 a.m. and 5:00 p.m.

The standard application form PHS 6025–1, HRSA Competing training Grant application and General Instructions have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. The supplemental instructions for this program are being submitted for OMB review.

The application deadline date is February 12, 1990.

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 submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmark shall not be acceptable as proof of timely mailing.

Applications received after the deadline date will be returned to the applicant.

Application materials and questions regarding grants policy should be directed to: Grants Management Officer ( ), Bureau of Health Professions, HRSA, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857.

Completed applications should be returned to the Grants Management Officer at the above address.

Questions concerning the programmatic aspects of the Allied Health Project Grants program should be directed to: Program Officer, Associated Health Professions Branch, Division of Associated and Dental Health Professions, Bureau of Health Professions, HRSA, 5600 Fishers Lane, Room 8C–02, Rockville, Maryland 20857, Telephone: (301) 443–6763.

The Federal Catalog of Domestic Assistance number for this program has not yet been assigned. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: December 15, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 90–262 Filed 1–4–90; 8:45 am]

BILLING CODE 4160–15–M

Emergency Medical Services for Children, Demonstration Grants

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces Fiscal Year (FY) 1990 funds are available for grants under section

1910 of the Public Health Service (PHS) Act. These grants will be made to States or accredited schools of medicine to support demonstration projects for the expansion and improvement of emergency medical services (EMS) for children. Funds appropriated by Public Law 101-166 will be used for this purpose.

DATE: To receive consideration, applications for the EMS for Children grants must be received by the close of business April 16, 1990, by the Grants Management Officer, at the address listed below. 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 date and received in time for submission to the review group.

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 considered late applications and will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be in writing and directed to the Director, Office of Maternal and Child Health, Bureau of Maternal and Child Health and Resources Development, Health Resources and Services Administration, Room 9-11, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-2170.

Grant applications (PHS form 5161-1, with revised facesheet HHS Form 424, approved under OMB #0348-0006) and additional information regarding business, administrative or fiscal issues related to the awarding of grants under this notice may be obtained from: Grants Management Officer, Bureau of Maternal and Child Health and Resources Development, Health Resources and Services Administration, 13200 Twinbrook Parkway, Suite 100-A, Rockville, Maryland 20852, 301-443-1440.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

The Emergency Medical Services for Children statute, (section 1910 of the PHS Act, as amended), establishes a program of grants to States and accredited medical schools for demonstration projects for the expansion and improvement of EMS for children who need treatment for critical illnesses and injuries. For purposes of this grant program, the term "State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, Guam, American Samoa, the Republic of Palau, the republic of the Marshall Islands, and the Federated States of Micronesia. The term "school of medicine" for purposes of this program is defined as having the same meaning as set forth in section 701(4) of the PHS Act (42 U.S.C. 292a(4)). "Accredited" in this context has the same meaning as set forth in section 701(5) of the PHS Act (42 U.S.C. 292a(5)).

It is the intent of this grant program to stimulate the initiation or expansion of ongoing efforts in the States to reduce the problems of life-threatening pediatric trauma and critical illness. The Department does not intend to award demonstration grants which would duplicate grants previously funded under the Emergency Medical Services Systems Act of 1972 or which would be used simply to increase the availability of EMS funds allotted to the State under the Preventive Health Services Block Grant.

By statute, the grant period for the EMS for Children projects is for up to two years, subject to annual evaluation by the Secretary. Also, by statute, no more than one grant can be made within a State—either to the State or to an accredited medical school—in any given year. Another statutory provision limits the total number of grants which may be made in any fiscal year to four.

Availability of Funds

Approximately $3,892,000 is available for grants for the EMS for Children program, of which $2,292,000 will be used for new and competing grants.

Eligible Applicants

Applications for funding under section 1910 will be accepted from States and accredited schools of medicine. Applicants are encouraged to seek the participation and support of interested entities within the State, such as local government and health and medical organizations in the private sector, in developing the proposed demonstration project.

Application Evaluation Criteria

An application will be evaluated by consideration of the following factors:

1. The adequacy of the applicant's description of the problem of pediatric trauma and critical illness in the State. The adequacy of sections of the application devoted to the special problems of (a) handicapped children and families; and (b) minority children and families (including Native Americans).
2. The appropriateness of project outcome objectives in relation to the specific nature of the problems identified by the applicant.
3. The soundness (in relation to the state of the art), appropriateness, comprehensiveness, cost effectiveness and responsiveness of the proposed methodology for achieving project goals and outcome objectives.
4. The soundness of the plan for evaluating progress in achieving project outcome objectives.
5. The extent of collaboration and coordination with other appropriate organizations involved in EMS, health care, and public health and safety (e.g., injury prevention activities, the State EMS agency, the State Maternal and Child Health program, highway safety, rehabilitation programs) and the degree of involvement of the "community" (e.g., private sector, voluntary organizations).
6. The soundness of the proposal, as set forth in the application, in terms of fiscal management, effective use of personnel, and ability to complete the proposal within the grant period.
7. The extent to which the applicant's work under the grant is likely to demonstrate approaches to the reduction of the consequences of the pediatric life-threatening trauma and critical illness that will be useful and broadly applicable in other communities.
8. The extent to which the applicant proposes to employ products and expertise of EMS for Children programs in other States, especially of current and former grantees of the Federal EMSC program. Such resources include, but are not limited to, technical assistance and consultation.

Allowable Costs

The basis for determining the allowability and allocability of costs charged to PHS grants is set forth in 45 CFR Part 92.22. The five separate sets of costs principles prescribed for grant recipients are: (1) OMB Circular A-87 for State and local governments; (2) OMB Circular A-21 for institutions of higher education; (3) 45 CFR part 74, Appendix E for hospitals; (4) OMB Circular A-122 for nonprofit organizations; and (5) 48 CFR chapter 1, subpart 31.2 for for-profit (commercial) organizations.

Reporting Requirements

A successful applicant under this notice will submit reports in accordance with the provisions of the general regulations which apply under 45 CFR

part 74, subpart J—Monitoring and Reporting of Program Performance, and part 92.40 which applies to state and local governments.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, 45 CFR Part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in those States for the review. Applicants should promptly contact their State single point of contact (SPOC) and follow their instructions prior to the submission of an application. The SPOC has 60 days after the deadline date to submit its review comments.

OMB Catalog of Federal Domestic Assistance: The OMB Catalog of Federal Domestic Assistance number is 13.127.

Dated: December 12, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 90-263 Filed 1-4-90; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

Runaway and Homeless Youth; Final Priorities for Fiscal Year 1990

AGENCY: Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Notice of final fiscal year 1990 runaway and homeless youth program priorities for the Office of Human Development Services.

SUMMARY: The Runaway and Homeless Youth Act requires the Department to publish annually for public comment a proposed plan specifying priorities the Department will follow in making grants under this title. Proposed priorities were published in the **Federal Register** on September 18, 1989 (54 FR 38449). Final priorities, as presented below, take into consideration the comments received from the field in response to that notice. The actual solicitation of grant applications will be published separately, at a later date, in the **Federal Register**. No proposals, concept papers or other forms of application should be submitted at this time.

FOR FURTHER INFORMATION CONTACT: Frank Fuentes, Telephone: (202) 245-0051.

SUPPLEMENTARY INFORMATION:

I. Purpose

The purpose of the Runaway and Homeless Youth Act (the Act) is to improve services for and increase knowledge about runaway and homeless youth and their families.

The Act authorizes: (1) Financial assistance to establish or strengthen community-based centers designed to address the immediate service needs of runaway and homeless youth and their families; (2) financial and technical assistance to establish and operate transitional living programs for homeless youth; (3) funds for a national communication system; (4) grants to statewide and regional non-profit organizations to provide technical assistance and training to agencies and organizations eligible to establish and operate runaway and homeless youth centers; (5) grants for research, demonstration, and service projects; and (6) informational assistance to potential grantees interested in establishing runaway and homeless youth centers.

II. Background

The Family and Youth Services Bureau (FYSB) is located within the Administration for Children, Youth and Families, Office of Human Development Services, Department of Health and Human Services. The Family and Youth Services Bureau is responsible for administering the Act at the Federal level. To carry out the purposes of the Act, FYSB conducts activities that address crisis needs of runaway and homeless youth and their families through the establishment or strengthening of more than 340 community-based programs providing temporary shelter, counseling, and aftercare services. The Family and Youth Services Bureau also supports coordinated network grants designed to share information, expertise, and resources among service providers, and a toll-free 24-hour National Runaway Switchboard which serves as a neutral channel of communication between young people and their families and as a source of referral to needed services.

III. Comments on Proposed Priorities

Section 364 of the Act requires that a notice of final program priorities be published each fiscal year after taking into consideration comments received from a public notice of proposed priorities. The Department requested specific comments and recommendations on proposed priorities, which were published in the **Federal Register** on September 18, 1989 (54 FR 38449). Comments on topics not covered in that notice but which were timely and related to the specific needs of runaway and homeless youth also were solicited.

As indicated in the earlier **Federal Register** notice, no acknowledgment is being made of the comments. All comments received by the deadline have been considered in preparing the final runaway and homeless youth funding priorities.

Nine comments were received in response to the proposed priorities published in September. The comments, in general, were supportive of the proposed priorities. Some commentors urged the inclusion of health, dental and mental health services. Although such services are beyond the scope of the Act and cannot be funded directly, FYSB has initiated efforts to facilitate the provision of such services to runaway and homeless youth through other channels.

Based on public comments received, the research and demonstration priority area 1—Technology Transfer: Utilization of Products of Previously Supported Research and Demonstration Projects—has been revised. Two issues within this priority area have been identified as particularly timely and useful to the field. These two issues—youth suicide and independent living skills—will be a required focus of the utilization project. In addition, five additional issues have been identified from among which applicants will be asked to address three.

Although not included in the proposed priorities, a description of the Transitional Living Grant Program is also provided in the final priorities since a Congressional appropriation was finalized during the public comment period. With the exception of this addition, minor editorial changes and clarifications, and the research and demonstration change, the final priorities for the Runaway and Homeless Youth Program are exactly the same as when published on September 18, 1989.

IV. Annual Program Priorities for Fiscal Year 1990

A. Priorities for Runaway and Homeless Youth Centers

Section 311 of the Act authorizes the Department to make grants to public and private entities to establish and operate local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of

runaway or otherwise homeless youth, and their families.

Approximately 340 grants (of which one-third will be new awards) will be funded to support organizations which provide services to fulfill the four major goals of the Runaway and Homeless Youth Program. These goals are:

(1) Alleviate the problems of runaway and homeless youth;

(2) Reunite youth with their families and encourage the resolution of intrafamily problems through counseling and other services;

(3) Strengthen family relationships and encourage stable living conditions for youth; and

(4) Help youth decide upon constructive courses of action.

Community-based centers that address the immediate needs (e.g., outreach, temporary shelter, counseling, and aftercare services) of runaway and homeless youth and their families will be established or strengthened through the conduct of a competitive grant review process. The review criteria and the accompanying application procedures will be published in a **Federal Register** announcement.

B. Priorities for a National Communications System

Section 313 of the Act authorizes the Department to make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers.

In FY 1990, the National Communication System will be implemented through (1) supporting a continuation grant to support the National Runaway Switchboard (NRS) and (2) developing an interagency agreement with the National Center for Missing and Exploited Children, Department of Justice. The NRS will continue to provide information, referral and crisis counseling services to at-risk youth, including runaway and homeless, youth and their families throughout the country. Services will continue to be available through a toll-free 24-hour telephone service which is staffed by trained volunteers.

Efforts to publicize the NRS and its services will increase during fiscal year 1990. The purpose of the interagency agreement is to improve the capacity of each grantee to make and receive more appropriate referrals among their respective callers.

A **Federal Register** announcement will not be published for this program priority in FY 1990.

C. Priorities for Technical Assistance and Training Grants

Section 314 of the Act authorizes the Secretary to make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities for the purpose of assisting such entities to establish and operate runaway and homeless youth centers.

The purpose of this program priority is to support grant activities that provide technical assistance and short-term training to both federally and non-federally funded runaway and homeless youth centers. The goals of this priority are to strengthen the centers' capacity to provide mandated services, to implement innovative practices and approaches, and to expand the coordination of services and resources between and among the centers.

In FY 1990, each HHS region will have a Coordinated Networking grant and will continue the programmatic activities originally funded in FY 1988. Therefore, no **Federal Register** announcement will be issued in fiscal year 1990.

D. Priorities for Transitional Living Grants

Part B of the Act authorizes the Secretary to make grants and provide technical assistance to public an non-profit private entities to establish and operate transitional living projects for homeless youth.

The purposes of this program priority are two-fold:

(1) To support activities which provide shelter and services designed to promote a successful transition to self-sufficient living and to prevent long-term dependency on social services by homeless youth ages 16-21; and

(2) To support activities which provide technical assistance to transitional living project service providers.

In FY 1990, a number of project grants to fulfill these purposes will be awarded through the conduct of a competitive grant review process. The review criteria and the accompanying application procedures will be published in a, **Federal Register** announcement. The mechanism for the provision of technical assistance under this program also will be presented in a separate announcement.

E. Priorities for Research, Demonstration, and Service Projects

Section 315 of the Act authorizes the Department to make grants to States, localities and private entities to carry out research, demonstration, and service projects designed to improve services for and increase knowledge of runaway and homeless youth.

This section further requires the Secretary to give special consideration to proposed projects relating to:

(1) Juveniles who repeatedly leave and remain away from their homes;

(2) Outreach to runaway and homeless youth;

(3) Transportation of runaway and homeless youth in connection with services authorized to be provided under this part;

(4) The special needs of runaway and homeless youth programs in rural areas;

(5) The special needs of foster care home programs for runaway and homeless youth;

(6) Transitional living programs for runaway and homeless youth; and

(7) Innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers.

With these statutory priorities in mind, the following two priority areas have been selected for inclusion in the OHDS Coordinated Discretionary Program:

1. Technology Transfer: Utilization of Products of Previously Supported Research and Demonstration Projects

Purpose: The purpose of this priority area is to review, evaluate, and prepare for dissemination information and models derived from previously supported research and demonstration efforts. Proposals for the empirical evaluation of previously funded efforts will be given the highest priority. Products of this activity will increase the capability of runaway and homeless youth centers to meet the increasing service needs of runaway and homeless youth and their families.

Background: Since 1985, the Family and Youth Services Bureau has funded 89 new projects in 17 subject areas under the Act. Products that have resulted from these projects include:

• Staff training manuals and other training materials including curricula, videotapes, computer protocols, and assessment instructions;

• Screening instruments to better identify problems such as vulnerability to suicide;

• Improved instruments for data collection to better incorporate demographic and cultural characteristics in program planning;

• Strategies for coordination at the local, State and Federal levels among agencies, organizations and programs to

more effectively assist runaway and homeless youth and their families;

• Outreach approaches to bring vulnerable, at-risk, hard to reach runaway and homeless youth into a service delivery system;

• Exemplary models of public-private partnerships, and utilization of volunteers and peers to enhance and expand the delivery of a broad spectrum of services to help at-risk youth; and

• Innovative techniques for funding service programs, including use of endowment funds, youth entreprenuership and corporate involvement in the delivery of services.

In preparing proposals that would disseminate the above types of products applicants will be required to focus on the issues of:

• Older youth who lack the skills to live independently; and

• Youth suicide and its prevention.

Applicants must also select three of the five additional issue areas listed below. In total, applicants will propose utilization and dissemenation activities for five areas of concern, and use the most salient and significant products developed in those areas.

(1) Identification and treatment of abused and neglected adolescents;

(2) Homeless youth, both urban and rural, including strategies and models for addressing their multiple needs as well as options for their integration into the mainstream of their community;

(3) Strategies for improving the employability of at-risk youth involving the use of Private Industry Councils;

(4) Parent/adolescent mediation; and

(5) Community involvement in runaway and homeless youth centers, including the use of volunteers and mentors and fund-raising strategies.

As part of their proposal applicants are expected to undertake the following activities:

• Evaluation of a representative sample of staff training materials and development of an action plan to improve shelter accessibility to these training resources;

• Coordination with a national professional association to develop a report on technological innovations resulting in improved services to at-risk youth. These innovations should reflect the research and demonstration projects funded by FYSB in recent years. Dissemination of this report to youth centers, policy-makers, community and business leaders is expected.

• Compilation of a list of video and computer products that have been developed through previously funded Runaway and Homeless Youth research and demonstration activities; evaluation of the quality of these videotape and computer products, and dissemination of this evaluation to center directors; and reproduction of these products for use by center directors and other youth serving agencies.

• Determination of the feasibility of a national symposium to disseminate information and stimulate replication.

• Compilation of summary presentations of successful projects, based on a standardized format, for publication and dissemination.

• Review of what sites have made dissemination and utilization contributions due to replication of original projects, products, and/or processes.

2. Successful National Models of Interdisciplinary Cooperation Between Law Enforcement Agencies and Runaway and Homeless Youth Centers

Purpose: The purpose of this priority area is to improve communication between local law enforcement agencies and runaway and homeless youth centers.

Background: Inappropriate placement of runaway and homeless youth in detention centers is a costly way of handling runaway, homeless, and other at-risk youth. Centers, having already established ties with community and service organizations, provide a natural framework for intervention and prevention of future delinquent behavior.

Demonstration projects would receive support to:

• Identify and describe existing barriers to police/center cooperation;

• Develop, test, and evaluate new methods of improving cooperation; and,

• Develop methods and curricula designed to institutionalize this cooperation, including police officer and youth worker training.

Dissemination of these models within the law enforcement and youth service sectors would be an integral part of the activities under this priority area.

(Catalog of Federal Domestic Assistance Program Number 13.623, Runaway and Homeless Youth.)

Dated: December 28, 1989.

Joseph Mottola,

Deputy Commissioner, Administration for Children, Youth and Families.

Approved: December 29, 1989.

Donna Givens,

Deputy Assistant Secretary for Human Development Services.

[FR Doc. 90-211 Filed 1-4-90; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-89-911; FR-2717]

Delegation of Authority for Community Planning and Development

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: Title I of the Housing and Community Development Act of 1974 establishes the Community Development Block Grant program. Section 111(a) provides for the imposition by the Secretary of sanctions for failure to comply substantially with any of the provisions of the Act, after affording a recipient of assistance reasonable notice and an opportunity for hearing.

Remedies available to the Secretary include the termination of payments to a recipient of Block Grant funds, the reduction of payments by an amount equal to the amount of such payments which were not in accordance with the Act, or the limitation of payments to programs or activities not affected by the failure to comply.

With certain exceptions, the authority to impose sanctions for noncompliance contained in section 111(a) of the Act is being delegated to the Assistant Secretary and the General Deputy Assistant Secretary for Community Planning and Development.

EFFECTIVE DATE: December 22, 1989.

FOR FURTHER INFORMATION CONTACT: Charles M. Farbstein, Assistant General Counsel for Administrative Law, Office of the General Counsel, Department of Housing and Urban Development, Room 10252, Washington, DC 20410, telephone (202) 755-7137. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Accordingly, the Secretary delegates the following authority to the Assistant Secretary and the General Deputy Assistant Secretary for Community Planning and Development:

Sec A: Authority delegated:

This notice delegates to the Assistant Secretary and the General Deputy Assistant Secretary for Community Planning and Development the Secretary's power and authority with respect to the imposition of sanctions for noncompliance contained in Sec. 111(a) of the Housing and Community Development Act of 1974 and the regulations issued thereunder at 24 CFR 570.913.

Sec. B: Authority excepted:

There is excepted from the authority delegated under Sec. A, (1) the power and authority of the Secretary to render a final agency decision upon review of the initial decision as provided by the regulations at 24 CFR 570.913(c)(9), and (2) the authority to impose sanctions described in Sec. 111(a)(1), (2) and (3) with respect to matters prohibited by Sec. 109 of the Act.

Dated: December 22, 1989.

Jack Kemp,

Secretary.

[FR Doc. 90-232 Filed 1-4-90; 8:45 am]

BILLING CODE 4210-32-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-89-1917; FR-2606-N-53]

Notice of Unutilized and Underutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: January 5, 1990.

ADDRESS: For further information, contact James Forsberg, Department of Housing and Urban Development, Room 7228, 451 Seventh Street SW; Washington, DC 20410; telephone (202) 755-6300; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Date: December 28, 1989.

Paul Roitman Bardack,

Deputy Assistant Secretary for Program Policy Development and Evaluation.

[FR Doc. 90-106 Filed 1-4-90; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-040-00-4410-08; DES 89-29]

Availability of the Draft Safford District Resource Management Plan and Environmental Impact Statement; Safford District, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a draft environmental impact statement (EIS) for the proposed Safford District Resource Management Plan (RMP). The RMP identifies BLM's proposed management for about 1.4 million acres of public land in southeastern Arizona. To give the public an opportunity to review and comment on the draft RMP and EIS, BLM has scheduled a 90-day comment period. During that period, the public is invited to review the document and provide BLM with its comments. The comment period will end April 6, 1990.

SUPPLEMENTARY INFORMATION: To assist the public in their review of the draft RMP and EIS, BLM has scheduled four open houses:

February 12, 1990—Safford, AZ, Old Armory Meeting Rm., 921 Thatcher Blvd.
February 13, 1990—Bisbee, AZ, Board of Supervisor's Hearing Room, Cochise County Admin. Bldg., 2nd Floor
February 14, 1990—Tucson, AZ, Tucson Public Library, Wilmot Branch, 530 N. Wilmot Road
February 15, 1990—Winkelman, AZ, Central Arizona College, Aravaipa Rd. & Hwy. 77

The open houses will be informal and held from 2:00—5:00 p.m. and 7:00—9:00 p.m. at each location. BLM personnel will be present to discuss their proposals and answer questions.

A limited number of copies of the draft RMP and EIS are available upon request from the Safford District Office, 425 E. 4th Street, Safford, AZ 85546, telephone (602) 428-4040 or the Arizona State Office, 3707 North 7th Street, Phoenix, AZ 85011, telephone (602) 640-5509. Public reading copies are also available at these locations.

DATE: The public comment period will end April 6, 1990. All comments must be post marked by that date to ensure consideration in the final RMP and EIS.

ADDRESS: Comments should be sent to the District Manager, Bureau of Land Management, 425 E. 4th Street, Safford, AZ 85546.

FOR FURTHER INFORMATION CONTACT: Steve Knox, RMP Team Leader, at the above address or telephone (602) 428-4040.

Dated: December 26, 1989.

Larry P. Bauer,

Acting State Director.

[FR Doc. 90-1 Filed 1-4-90; 8:45 am]

BILLING CODE 4310-32-M

[CA-056-00-4332-10]

Amendment to Closure Order for Public Use

ACTION: Amendment to closure order for public use.

SUMMARY: Notice is hereby given amending the Bureau of Land Management's (BLM) December 20, 1989 Closure Order which, in accordance with regulations contained in 43 CFR 8364.1, closed BLM-administered land to all public use. The Closure Order closed approximately 2,000 acres located in portions of Sections 18, 19, T2S, R2W, Humboldt Meridian, and Sections 13, 24, 25, 36, T2S, R3W, Humboldt Meridian, and known as the west slope of the King Range Extension Area. The area was temporarily closed to all public use from December 20, 1989 through January 10, 1990 to protect persons, property, and public lands and resources.

This notice amends the December 20, 1989 Closure Orders expiration date from January 10, 1990 to December 26, 1989.

DATE: This order is effective December 26, 1989.

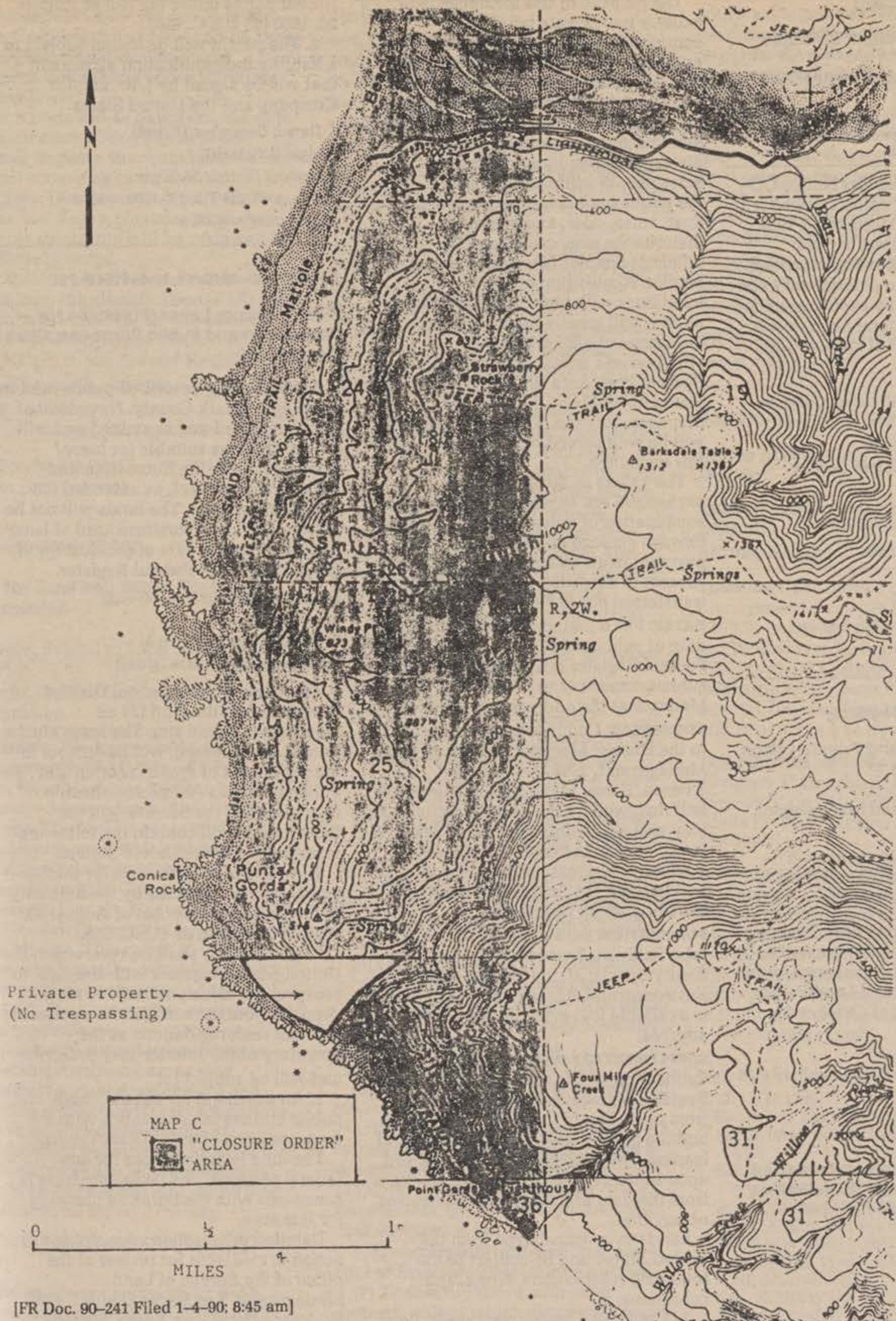
SUPPLEMENTARY INFORMATION: The purpose of the December 20, 1989 temporary emergency closure was to protect the Public Lands and resources affected from disturbance and damage which would result from the anticipated gathering of up to 3,000 people associated with the Rainbow Tribe over a two-week period. That closure was effective. As a result of that closure the 80 to 100 members of an advance party of the Rainbow Tribe left the area. The closure was kept in effect not knowing if they, or others, would reenter the area. It is now apparent that the Rainbow Tribe members no longer pose either a resource or a health and safety threat to

the closed area. *Therefore*, the December 20, 1989 Closure Order is amended to show the effective dates of the Closure to be from December 20, 1989 to December 26, 1989. As of December 26, 1989, the Closed Area will be open for public use and enjoyment.

John T. Lloyd,

Arcata Area Manager.

BILLING CODE 4310-40-M



[FR Doc. 90-241 Filed 1-4-90; 8:45 am]
BILLING CODE 4310-40-C

[CO-030-09-4212-13-2200]

Realty Action Correction; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action correction COC49708.

SUMMARY: Federal Register Notice CO-030-09-4212-13-2200 dated December 1, 1989 and published December 7, 1989 (Vol. 54 FR 50542) stated "certain parcels within the following described public land have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 USC 1716:

New Mexico Principal Meridian, Colorado

T. 43 N., R. 10 W.
Sec. 19, Lot 4, NE¼NW¼

This legal description is hereby corrected to read:

T. 43 N., R 10 W.
Sec. 19, SE¼SW¼, NE¼NW¼

Dated: December 18, 1989.

Charles R. Finch,
Acting District Manager.

[FR Doc. 90-250 Filed 1-4-90; 8:45 am]

BILLING CODE 4310-JB-M

[ID-010-00-4212-13; IDI-26365]

Exchange of Public and Private Lands in Elmore County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—IDI-26365; exchange of public and private lands in Elmore County, Idaho.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Boise Meridian

T. 4 S., R. 3 E.,
Sec. 26, lot 4;
Sec. 27, lots 1 and 2.
Containing 102.5 acres.

In exchange for the above lands, the BLM proposes to acquire the following described private lands from J. R. Simplot Company:

Boise Meridian

T. 5 S., R. 3 E.,
Sec. 12, NE¼NE¼.
T. 5 S., R. 4 E.,
Sec. 9, E½SE¼.
Aggregating 120 acres, more or less.

The purpose of this exchange is to acquire two private inholdings containing existing raptor nesting sites, and higher quality habitat for raptors and their prey than occurs on the above public lands. The public lands contain very limited wildlife habitat or potential due to signficant residual surface disturbance resulting from past activities. Wildlife habitat potential on the public land is further degraded by dust, noise, odor, and human disturbance emanating from the adjacent Simplot Livestock Company feedlot. Acquisition of private inholdings with higher quality wildlife habitat will greatly improve raptor management effficiency and effectiveness within the Snake River Birds of Prey Area (SRBOPA), which is a stated objective of the SRBOPA Management Plan. The public interest will be well served by the completion of this exchange.

The values of the lands to be exchanged are approximately equal. Full equalization of values will be achieved through acreage adjustment or cash payment in an amount not to exceed 25 percent of the value of the lands being transferred out of Federal ownership.

DATES: For a period of 45 days from the date of publication of this notice in the Federal Register interested parties may submit comments to the District Manager at the address shown below.

ADDRESSES: Comments should be sent to the District Manager, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705. Objections will reviewed by the State Director, who may sustain, modify, or vacate this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Bruneau Resource Area Realty Specialist, at (208) 334-1582. The Environmental Assessment/Land Report is available for review at the above address.

SUPPLEMENTARY INFORMATION: Publication of this notice in the Federal Register segregates the public lands from operation of the public lands laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two (2) years from the date of publication, whichever occurs first.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. The United States reserves to itself a right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 956).

2. The patent will be issued subject to a liability indemnification agreement that will be signed by J. R. Simplot Company and the United States.

Dated: December 18, 1989.

Rodger E. Schmitt,
Associate District Manager.

[FR Doc. 90-244 Filed 1-4-90; 8:45 am]

BILLING CODE 4310-GG-M

[NV-930-00-4212-11; N-4-41566-21]

Realty Action; Lease/Purchase for Recreation and Public Purposes; Clark County, NV

The following described public land in Las Vegas, Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,
Sec. 23, SE¼NW¼NE¼.
Aggregating 10 acres (gross)

The Clark County School District intends to use the land for an elementary school site. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon 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. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the above described

land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Dated: December 28, 1989.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 90-249 Filed 1-4-90; 8:45 am]

BILLING CODE 4310-HC-M

[NM-060-00-4120-09]

Call for Coal and Other Resource Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for Coal and other resource information.

SUMMARY: The Bureau of Land Management (BLM), Roswell Resource Area, New Mexico is beginning the Resource Management Plan (RMP) process. The RMP is being written for the planning area which includes the public lands in federal mineral ownership within Curry, Quay, Roosevelt, Lincoln, Chaves, De Baca, and Guadalupe counties in southeastern New Mexico. This call is to identify areas which may be suitable for the leasing of coal, pursuant to 43 CFR 3420.1-2. Coal companies, state and local governments, and members of the public should submit information to assist in determining areas with potential for coal development and possible conflicts with other resources. Where such information shows development potential for an area, the RMP will evaluate whether the area should be carried forward for further consideration for coal leasing.

DATE: Comments are due by March 30, 1990.

ADDRESS: Send comments to: BLM Roswell Resource Area Office, RMP Team Leader, P.O. Drawer 1857, Roswell, New Mexico, 88202-1857.

Identify Proprietary data to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Ned Slagle, Area Geologist, or Pat Kelley, RMP Team Leader, Roswell Resource Area, (505) 624-1790.

SUPPLEMENTARY INFORMATION: The area undergoing evaluation is the Sierra Blanca Coal Field. This area is located near the towns of Ruidoso, Capitan, and White Oaks, New Mexico. The field is in *Townships* 7, 8, 9, 10, and 11, South, *Ranges* 8, 9 , 10, 11, 12, and 13, East (New Mexico Prime Meridian). A map showing the area is available in the Roswell Resource Area Office.

The development of the coal resource may be one of the issues addressed in the Resource Management Plan. If industry has an interest in leasing an area, they must provide BLM with adequate coal resource data during this call for coal information, including drilling logs and maps. Otherwise, coal will not be an issue in the RMP and no federal coal development will be considered for the Roswell Resource Area during the life of the RMP. The information received from this call will be a major factor in applying the unsuitability criteria and multiple use trade-off screens. The type of information needed includes, but is not limited to the following:

(1) Location:

A. Tracts desired by mining companies (a narrative description plus a 1:100,000 scale surface/minerals management quad map with the tracts delineated by legal subdivision).

B. The location of public and private industry user facilities in the general region.

(2) Quantity needs (total tonnage of reserves, and average annual production tonnage) for both coal producers and users.

(3) Quality needs (BTU, sulfur and ash) for both producers and users.

(4) Coal reserve or drilling data which a company or the public may have about the Roswell Resource Area.

(5) Proposed users of the coal.

(6) Information relating to surface and mineral ownership:

a. Information on surface owner consents previously granted. Include a description of the location of the property, whether consents are transferable, surface owner leases with coal companies, etc.

b. Commitments obtained from fee coal or from non-Federal coal owners.

(7) To identify areas with other resource values which may conflict with coal development, include the following information:

a. Location—delineate area on a map with a scale not less than 1:100,000. Provide a narrative describing type of resource, the reasons for non-development, and other pertinent information.

All persons, groups, or other government agencies with an interest in coal within the Roswell Resource Area must submit comments on or before March 30, 1990. Public participation activities will be conducted in accordance with 43 CFR part 1610.2.

Dated: December 22, 1989.

Larry L. Woodard,

State Director.

[FR Doc. 90-242 Filed 1-4-90; 8:45 am]

BILLING CODE 4310-FB-M

[NM-940-00-4214-10; NM NM 81795]

Notice of Proposed Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 4,979.94 acres of public land to protect the Wild Rivers Recreation Area near the vicinity of Cerro, New Mexico. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6071.

SUPPLEMENTARY INFORMATION: On December 21, 1989, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

New Mexico Principal Meridian

T. 28 N., R. 12 E.,
 Sec. 3, lots 1 to 4, inclusive and S½N½;
 Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
 Sec. 5, lots 1 to 4, inclusive, S½N½, N½SW¼, and SE¼;
 Sec. 6, lot 1, and SE¼NE¼;
 Sec. 8, E½E½ and E½W½E½;
 Sec. 9, NW¼NE¼, W½SW¼NE¼, NW¼, W½SW¼, W½E½SW¼, and NE¼NE¼SW¼;
 Sec. 16, NW¼NW¼;
 Sec. 17, E½NE¼ and E½W½NE¼.
T. 29 N., R. 12 E.,
 Sec. 22, W½SW¼ and W½E½SW¼;

Sec. 27, W½W½E½ and W½;
Sec. 28;
Sec. 29, lots 1 to 8, inclusive, E½E½, SE¼SE¼NW¼, E½NE¼SW¼, and SE¼SW¼;
Sec. 31, SE¼SE¼;
Sec. 32, E½NW¼NW¼;
Sec. 33;
Sec. 34, W½.

The area described contains 4,979.94 acres in Taos County.

The purpose of the proposed withdrawal is to protect the land for the Wild Rivers Recreation Area. Until an application is filed, no further action will be taken on this proposal.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, or discretionary land use authorizations, but only with the approval of an authorized officer of the Bureau of Land Management.

Dated: December 27, 1989.

Larry L. Woodard,

State Director.

[FR Doc. 90-243 Filed 1-4-90; 8:45 am]

BILLING CODE 4310-FB-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau Clearance Officer, Mail Stop 632, Parkway Atrium, 381 Elden Street, Herndon, Virginia 22070-4817; and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC. 20503, telephone (202) 395-7340; (OMB Project Number 1010-0036); with copies to Gerald Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 3313; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070-4817.

Title: Inspection and Reporting of Progress and Results of Activities Conducted Under Permits, 30 CFR 251.7.

OMB approval number: 1010-0036.

Abstract: Respondents provide the Minerals Management Service (MMS) with a status report that enables MMS to verify that permit requirements are met, estimate completion dates and determine the quality of data acquired by persons operating under a permit for geological and geophysical exploration for mineral resources and scientific research in the Outer Continental Shelf.

Bureau form number: Forms MMS 327 and MMS 328.

Frequency: Monthly and other.

Description of respondents: Federal OCS permittees.

Estimated completion time: 8 hours.

Annual responses: 800.

Annual burden hours: 6,400.

Bureau Clearance Officer: Dorothy Christopher (703) 787-1239.

Dated: December 11, 1989.

Wiliam D. Bettenberg,

Associate Director for Offshore Minerals Management.

[FR Doc. 90-251 filed 1-4-90; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Amdt. 1 to Directed Service Order No. 1508]

The Atchison, Topeka and Santa Fe Railway Co., Directed Service

AGENCY: Interstate Commerce Commission.

ACTION: Amendment to Directed Service Order.

SUMMARY: The unsubsidized and uncompensated directed service authority contained in Directed Service Order No. 1508 (DSO 1508) is based on representations by the Trustee of the Chicago, Missouri and Western Railway Company (CMW) that the railroad's cash position would not allow it to continue operations over its line between Cockrell, IL (near Springfield, IL) and Kansas, City, MO, and between Roodhouse, IL and Tolson, IL (East/West Line) beyond Friday, November 3, 1989, and CMW ceased operations on that date. To assure continued service to shippers that were affected by the discontinuance of operations, the Commission authorized The Atchison, Topeka, and Santa Fe Railway Company (ATSF) to provide interim service over the East/West Line of CMW until 11:59 p.m., on January 2, 1990.

On December 27, 1989, the CMW Trustee notified the Commission that his negotiations with prospective purchasers of the East/West Line are continuing, and that an extension of the directed service authority is essential. ATSF concurs and is willing to continue providing interim service on an unsubsidized and uncompensated basis. This decision extends directed service authority for ATSF to operate over CMW for an additional thirty (30) days.

DATES: *Effective Date:* Amendment No. 1 to Directed Service Order No. 1508 shall be effective at 11:59 p.m., on January 2, 1990.

Expiration Date: Unless otherwise modified or amended by the Commission, Directed Service Order No. 1508 will expire at 11:59 p.m., on February 1, 1990.

FOR FURTHER INFORMATION CONTACT:

Melvin F. Clemens, Jr., (202) 275-1559, or

Joseph H. Dettmar, (202) 275-7245, (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: The CMW has been in bankruptcy since April 1, 1988, in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, (Bankruptcy Filing No. 88 B 05141). The carrier's present rail system extends from Kansas City, MO on the west to Springfield, IL on the East.

On November 3, 1989, pursuant to 49 U.S.C. 11125, the Commission authorized ATSF to operate as a "Directed Rail Carrier"—uncompensated and without Federal subsidy under 49 U.S.C. 11125(b)(5)—over the lines of the CMW between Cockrell, IL, (near Springfield, IL) and Kansas City, MO, and between Roodhouse, IL and Tolson, IL, in the East St. Louis terminal area (East/West Line), for 60 days. Since that time, ATSF has operated CMW's East/West Line under 49 U.S.C.-11125(a) (1) and (3), as an unsubsidized and uncompensated Directed Rail Carrier (DRC).

On December 27, 1989, the CMW Trustee requested extension of the directed service authority. In support, the Trustee indicated that negotiations for the sale of the East/West Line are continuing, but that these negotiations have not sufficiently progressed to allow a closing on the sale prior to the expiration of the present order. ATSF has concurred in this request for extension and states that it is willing to

continue providing interim service without Federal Compensation.

We find:

1. To prevent severe transportation and economic disruptions due to CMW's cessation of operations and to assure continued service to affected shippers, it is necessary for the Commission to authorize ATSF to continue to operate CMW's lines between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL under 49 U.S.C. 11125, conditioned upon a waiver of any compensation or subsidy from the Federal government.

2. Our action in this decision will not substantially impair the ability of ATSF to serve its own patrons adequately, or meet its outstanding common carrier obligations, *see* 49 U.S.C. 11125(b)(2)(B), and will assure continued rail service to affected shippers.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. Based upon its undertaking to do so without any form of compensation from the Federal government, ATSF is authorized to continue to operate CMW's lines between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL, pursuant to this voluntary directed service order under 49 U.S.C. 11125, for an additional thirty (30) days.

2. Operations conducted under DSO No. 1508 shall conform to the directions and conditions contained therein, and as amended here.

3. All submissions filed in this proceeding should refer to DSO No. 1508 and be sent to the Commission's headquarters at 12th Street and Constitution Avenue, NW., Washington, DC 20423. An original and 10 copies should be submitted.

4. The provisions of this decision shall apply to intrastate, interstate, and foreign commerce.

5. The Commission retains jurisdiction to modify, supplement, or reconsider this decision at any time.

6. Notice of this decision shall be given to the general public by publication in the **Federal Register** on January 5, 1990. This decision will also be served on the Federal Railroad Administration, the Association of American Railroads—Transportation Division, American Short Line Railroad Association, The Railway Labor Executives' Association, the CMW Trustee, and ATSF.

7. This decision and order shall become effective at 11:59 p.m., on January 2, 1990.

8. Unless otherwise modified or amended by the Commission, this order will expire at 11:59 p.m., on February 1, 1990.

Decided: December 29, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Lamboley, Phillips, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-286 Filed 1-4-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-324X]

Arkansas and Missouri Railroad Co. Inc.; Abandonment Exemption in Benton County, AR

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Arkansas and Missouri Railroad Company, Inc., of a 1.4-mile portion of its Bentonville Branch, from a point near milepost 336.6 to the end of the line near milepost 338.0 at Bentonville, in Benton County, AR, subject to standard labor protective conditions and a public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on February 6, 1990. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by January 16, 1990, petitions to stay must be filed by January 22, 1990, and petitions for reconsideration must be filed by February 1, 1990

ADDRESSES: Send pleadings referring to Docket No. AB-324X to

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and,

(2) Petitioner's representative: Kevin M. Sheys, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275-1721.]

Decided: December 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Lamboley, Phillips, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-287 Filed 1-4-90; 8:45 am]

BILLING CODE 7035-01-M

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

DEPARTMENT OF JUSTICE

Lodging of a Consent Decree Pursuant to CERCLA

In accordance with Department policy, 28 CFR 50.7, and section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), notice is hereby given that on December 18, 1989, a proposed partial consent decree in *United States, et al.* v. *Fairchild Industries, Inc., et al.*, Civil Action No. R-88-2933 was lodged with the United States District Court for the District of Maryland.

The proposed partial consent decree requires the defendants to implement the interim remedial action selected by the Environmental Protection Agency (EPA) to address the imminent and substantial endangerment to human health and the environment posed by the release or threat of release of hazardous substances at the Limestone Road Site in Allegheny County, Maryland, 2.5 miles southeast of Cumberland, Maryland, and to perform a Remedial Investigation and Feasibility Study for that site. The interim remedy to be conducted by the defendants, includes grading of the site, capping contaminated soil and fencing the area of contamination. The parties to the partial consent decree are the United States, the State of Maryland, Fairchild Industries, Inc., and Cumberland Cement and Supply Co.

The Department of Justice will receive comments relating to the proposed partial consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Divisions, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Fairchild Industries*, DJ Ref. 90-11-3-227.

Copies of the proposed partial consent decree may be examined at the Office of the United States Attorney, District of Maryland, 8th Floor, U.S. Court House, 101 W. Lombard Street, Baltimore, Maryland 21201 and at the Region III office of the Environmental

Protection Agency, 841 Chestnut Building, Philadephia, Pennsylvania 19107. Copies of the proposed partial consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the partial consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $6.60 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 90-245 Filed 1-4-90; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, and section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9622(d), notice is hereby given that on December 18, 1989, a proposed consent decree in *United States* v. *Browning-Ferris Industries of Vermont, Inc. et al.*, Civil Action No. 89-357, was lodged with the United States District Court for the District of Vermont. The decree resolves claims under CERCLA, 42 U.S.C. 9601, et seq., of the United States against Browning-Ferris Industries of Vermont, Inc., Emhart Industries, Inc., Textron Inc., and the Town of Springfield, Vermont, (the "defendants") for injunctive relief and for recovery of response costs related to the Old Springfield Landfill Site (the Site) located in the Town of Springfield, Windsor County, Vermont. In the proposed consent decree, the defendants agree to implement the operable unit remedial action selected by the Environmental Protection Agency (EPA) to address hazardous substances contamination at the Site. In addition, the decree requires the defendants to reimburse the United States for a portion of past response costs incurred at the Site and to pay all of EPA's oversight costs for the remedy.

The proposed decree may be examined at the office of the United States Attorney for the District of Vermont, P.O. Box 10, Rutland, Vermont 05701; at the Region I Office of Regional Counsel, Environmental Protection Agency, J.F.K. Federal Building, Boston, Massachusetts, 02203, contact: Timothy Conway, Esq.; and at the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue NW., Washington, DC 20530. In requesting copies, please enclose a check in the amount of $6.20 (10 cents per page reproduction charge) payable to the Treasurer of the United States. The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Browning-Ferris Industries of Vermont, Inc. et al.*, Civil Action No. 89-357. (D. Vt.), D.J. Reference No. 90-11-3-293A.

George Van Cleve,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90-248 Filed 1-4-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Survey of Occupational Exposure to Air Contaminants in Construction

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of expedited information collection clearance under the Paperwork Reduction Act.

SUMMARY: The Occupational Safety and Health Administration (OSHA), Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35, 5 CFR 1320 (53 FR 16618, May 10, 1988)), is submitting a request for approval to the Office of Management and Budget for a survey to support an assessment of the technological and economic feasibility of setting new permissible exposure limits (PELs) for air contaminants in the construction industry. This will be a one time only survey.

DATE: OSHA has requested an expedited review of this submission under the Paperwork Reduction Act; this OMB review has been requested to be completed by February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the survey or reporting burden should be directed to Paul E. Larson, Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210, ((202) 523-6331).

Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 3001, Washington, DC 20503 ((202) 395-6880).

Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Signed at Washington, DC, this 29th day of December, 1989.

Paul E. Larson,

Departmental Clearance Officer.

BILLING CODE 4510-26-M

Standard Form 83
(Rev. September 1983)

Request for OMB Review

Important

Read instructions before completing form. Do not use the same SF 83 to request both an Executive Order 12291 review and approval under the Paperwork Reduction Act.

Answer all questions in Part I. If this request is for review under E.O. 12291, complete Part II and sign the regulatory certification. If this request is for approval under the Paperwork Reduction Act and 5 CFR 1320, skip Part II, complete Part III and sign the paperwork certification.

Send three copies of this form, the material to be reviewed, and for paperwork—three copies of the supporting statement, to:

Office of Information and Regulatory Affairs
Office of Management and Budget
Attention: Docket Library, Room 3201
Washington, DC 20503

PART I.—Complete This Part for All Requests.

1. Department/agency and Bureau/office originating request
Labor/OSHA/Office of Regulatory Analysis

2. Agency code
1 2 1 8

3. Name of person who can best answer questions regarding this request
Hugh Conway, Director, Office of Regulatory Analysis

Telephone number
(202) 523-9690

4. Title of information collection or rulemaking
Survey of Occupational Exposure to Air Contaminants in Construction

5. Legal authority for information collection or rule *(cite United States Code, Public Law, or Executive Order)*
29 USC 655 et seq. or Pl. 91-596

6. Affected public *(check all that apply)*
1 ☐ Individuals or households
2 ☐ State or local governments
3 ☐ Farms
4 ☒ Businesses or other for-profit
5 ☐ Federal agencies or employees
6 ☐ Non-profit institutions
7 ☒ Small businesses or organizations

PART II.—Complete This Part Only If the Request Is for OMB Review Under Executive Order 12291

7. Regulation Identifier Number (RIN)
__ __ __ __ — __ __ __ __, or, None assigned ☐

8. Type of submission *(check one in each category)*

Classification
1 ☐ Major
2 ☐ Nonmajor

Stage of development
1 ☐ Proposed or draft
2 ☐ Final or interim final, with prior proposal
3 ☐ Final or interim final, without prior proposal

Type of review requested
1 ☐ Standard
2 ☐ Pending
3 ☐ Emergency
4 ☐ Statutory or judicial deadline

9. CFR section affected
_____ CFR _____

10. Does this regulation contain reporting or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act and 5 CFR 1320? . . . ☐ Yes ☐ No

11. If a major rule, is there a regulatory impact analysis attached? . . . 1 ☐ Yes 2 ☐ No
If "No," did OMB waive the analysis? . . . 3 ☐ Yes 4 ☐ No

Certification for Regulatory Submissions

In submitting this request for OMB review, the authorized regulatory contact and the program official certify that the requirements of E.O. 12291 and any applicable policy directives have been complied with.

Signature of program official | Date

Signature of authorized regulatory contact | Date

12. *(OMB use only)*

Previous editions obsolete
NSN 7540-00-634-4034

83-108

Standard Form 83 (Rev. 9-83)
Prescribed by OMB
5 CFR 1320 and E.O. 12291

PART III.—Complete This Part Only if the Request is for Approval of a Collection of Information Under the Paperwork Reduction Act and 5 CFR 1320.

13. Abstract—Describe needs, uses and affected public in 50 words or less

OSHA needs data on the nature and extent of occupational exposures to air contaminants in the construction industry in order to analyze the potential effects of regulatory action in this area. A sample of establishments throughout SICs 15, 16, and 17 will be surveyed.

14. Type of information collection *(check only one)*

Information collections not contained in rules

1 [X] Regular submission

2 [ ] Emergency submission *(certification attached)*

Information collections contained in rules

3 [ ] Existing regulation *(no change proposed)*

4 [ ] Notice of proposed rulemaking (NPRM)

5 [ ] Final, NPRM was previously published

6 Final or interim final without prior NPRM

A [ ] Regular submission

B [ ] Emergency submission *(certification attached)*

7. Enter date of expected or actual Federal Register publication at this stage of rulemaking *(month, day, year)*: ______

15. Type of review requested *(check only one)*

1 [X] New collection

2 [ ] Revision of a currently approved collection

3 [ ] Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection

4 [ ] Reinstatement of a previously approved collection for which approval has expired

5 [ ] Existing collection in use without an OMB control number

16. Agency report form number(s) *(include standard/optional form number(s))*

none

17. Annual reporting or disclosure burden

	incomplete	Complete
1 Number of respondents	432	1193
2 Number of responses per respondent	1	1
3 Total annual responses *(line 1 times line 2)*	432	1193
4 Hours per response	.125	.65
5 Total hours *(line 3 times line 4)*	54	775

18. Annual recordkeeping burden

1 Number of recordkeepers	0
2 Annual hours per recordkeeper	
3 Total recordkeeping hours *(line 1 times line 2)*	0
4 Recordkeeping retention period	0 years

19. Total annual burden

1 Requested *(line 17-5 plus line 18-3)*	829
2 In current OMB inventory	0
3 Difference *(line 1 less line 2)*	829
Explanation of difference	
4 Program change	
5 Adjustment	

20. Current *(most recent)* OMB control number or comment number

21. Requested expiration date

December, 1990

22. Purpose of information collection *(check as many as apply)*

1 [ ] Application for benefits

2 [ ] Program evaluation

3 [ ] General purpose statistics

4 [ ] Regulatory or compliance

5 [X] Program planning or management

6 [ ] Research

7 [ ] Audit

23. Frequency of recordkeeping or reporting *(check all that apply)*

1 [ ] Recordkeeping

Reporting

2 [ ] On occasion

3 [ ] Weekly

4 [ ] Monthly

5 [ ] Quarterly

6 [ ] Semi-annually

7 [ ] Annually

8 [ ] Biennially

9 [ ] Other *(describe)*: ______

24. Respondents' obligation to comply *(check the strongest obligation that applies)*

1 [X] Voluntary

2 [ ] Required to obtain or retain a benefit

3 [ ] Mandatory

25. Are the respondents primarily educational agencies or institutions or is the primary purpose of the collection related to Federal education programs? [ ] Yes [X] No

26. Does the agency use sampling to select respondents or does the agency recommend or prescribe the use of sampling or statistical analysis by respondents? [X] Yes [ ] No

27. Regulatory authority for the information collection

29 CFR 655 et. seq. ; or ______ FR ______ ; or, Other *(specify)*: ______

Paperwork Certification

In submitting this request for OMB approval, the agency head, the senior official or an authorized representative, certifies that the requirements of 5 CFR 1320, the Privacy Act, statistical standards or directives, and any other applicable information policy directives have been complied with.

Signature of program official	Date
signed by Vivian Allen	Dec. 28, 1989
Signature of agency head, the senior official or an authorized representative	**Date**
signed by Paul Larson	Dec.29, 1989

BILLING CODE 4510-26-C

★U.S. Government Printing Office: 1985—479-488/39232

Appendix

Supporting Statement for Survey and Related Data Gathering to Support OSHA Rulemaking on Air Contaminants in Construction

A. Justification

1. Necessity of Data Collection

The Office of Regulatory Analysis of the Occupational Safety and Health Administration (OSHA) is collecting data to support an assessment of the technological and economic feasibility of a standard to protect workers from occupational exposure to air contaminants in the construction industry. OSHA recently updated the permissible exposure limits (PELs) of hundreds of chemicals for workers in general industry covered by 29 CFR part 1910 and is currently planning to extend the benefits of increased health protection to construction workers.

The current PELs for the construction industry are the "Threshhold Limit Values of Airborne Contaminants for 1970" set by the American Conference of Governmental Industrial Hygienists (ACGIH). The health evidence that has accumulated over the last twenty years suggests that at many of these PELs a significant risk to the workers' health may exist. In addition, OSHA plans to set new PELs for specific substances not on the 1970 ACGIH list that may cause significant risks to the health of workers.

In order to evaluate the potential regulatory impact of a revised OSHA standard for air contaminants in construction, OSHA and its contractor, CONSAD Research Inc., have been conducting research on the nature of chemical exposures in the construction industry. Through extensive literature and database searches, OSHA and CONSAD have identified those chemicals that may present exposure hazards to employees. Industry experts at CONSAD have also identified products associated with the relevant chemicals. Furthermore, CONSAD has compiled lists of chemicals/products used in various activities as well as lists of activities associated with each construction trade. These efforts contribute to the development of an exposure profile which will subsequently provide the framework for a regulatory impact analysis (RIA).

Although substantial amounts of information about the use of chemicals and products in construction is available and has been researched, some of the necessary data can only be obtained through a survey of the construction establishments themselves. Specifically, this survey will enable OSHA to:

—Determine the number of employees, by trade, involved in the exposure-causing activities;
—Determine the frequency and duration of these exposures;
—Determine the current extent to which respirators, protective equipment, and other controls are used with the products and activities in each trade;
—Verify the use of products (and thereby chemicals) in activities, by craft of employee;
—Collect additional data on exposure levels associated with the applications of products;
—Use data compiled from other ongoing research efforts to validly assess aggregate impacts on individual sectors of the construction industry.

OSHA's congressional mandate stipulates that the Agency carefully design and study its regulatory proposals. Section 6(b)(5) of the OSHA Act 2d U.S.C. 655(b)(5) mandates that regulations promulgated by the Agency shall most adequately assure worker safety and health "to the extent feasible on that basis of the best available evidence." They are to be based on "research and the latest available scientific data." Section 6(f) of the Act requires regulations to be justified by "substantial evidence in the record" and authorizes the Secretary of Labor "to enter into contracts, agreements or other arrangements with appropriate public agencies or private organizations for the purposes of conducting studies related to his responsibility under the Act." The courts have endorsed the view that technological and economic factors affect the feasibility of proposed regulations. Thus, OSHA is obligated to gather data on the technological feasibility, cost of compliance, and economic consequences of future standards.

Executive Order 12291 reiterates this obligation by requiring the preparation of preliminary and final Regulatory Impact Analyses for each major rule. The Agency must analyze the potential benefits and costs of the rule and alternative approaches. The Regulatory Impact Analysis may be combined with the analysis required by the Regulatory Flexibility Act. This Act specifically requires an analysis that describes the "impact of the proposed rule on small entities" and significant regulatory alternatives that "take into account the resources available to small entities."

In order to fulfill the congressional and Presidential mandates and to better evaluate the economic and technological feasibility of a proposed OSHA standard, OSHA is planning to gather statistically accurate data through a survey of establishments engaged in construction work. These data will enable the Agency to develop estimates of the economic impacts associated with the proposed rule.

Data will be gathered through the use of computer assisted telephone interviewing (CATI) and site visits. A pre-test of the CATI survey will determine the effectiveness of this approach in the construction industry; the full CATI survey will only be conducted if the pre-test indicates that this will be a successful method for gathering the necessary data. Additional site visits may be substituted as an alternative.

A timetable for the survey is presented in Figure 1. The timetable shows that OSHA is attempting to complete the survey within a short period of time in order to complete the preliminary regulatory impact analysis in conjunction with the proposed rule. Thus, OSHA requests that an expedited review be performed by OMB.

2. Uses of the Information

The data gathered through this survey will be used by OSHA to determine feasibility and make estimates of the direct and indirect costs and benefits of reducing PELs for several hundred substances in the construction industry. The information gathered from all of the data collection efforts will be used by OSHA to prepare a regulatory impact analysis (RIA) for the proposed and final rules. Executive Order 12291 requires preparation of an RIA for each major rule. In an RIA, the Agency must assess the potential benefits and costs of the rule and of alternative approaches. In addition, the survey results will create a unique database characterizing chemical exposures in construction, which may be useful in future rulemaking efforts.

The questions in the survey are designed to gather the needed information in a straightforward manner. The discussion below describes in detail the data uses for responses to each set of questions in the survey instrument.

A. Questions Regarding the Nature of the Establishment and of a Recent Project

This set of questions identifies the characteristics of the establishment and of the construction project on which specific exposure data will be gathered. Information from these questions will enable project-specific data to be validly extrapolated from the sample to the underlying population.

B. Questions on Activities Involving the Establishment

These questions will verify and/or modify the list of activities that are associated with the establishment category. Also, chemicals and products associated with each activity will be verified and/or newly identified. This information will provide the crucial links between chemicals, activities, and establishment categories that are necessary to develop the exposure profile.

C. Questions on the Nature and Extent of Employee Exposures

These questions will determine the extent of employee involvement in each activity and the nature of corresponding chemical exposures, including the use of work practices and exposure controls. Information on exposure levels and monitoring data will also be solicited. These data will provide the inputs necessary to adequately characterize chemical exposures in the construction industry by activity and to subsequently calculate estimates of potential costs and benefits associated with the proposed rule.

FIGURE 1.—SCHEDULE FOR SURVEY DESIGN AND COMPLETION

Complete design of survey instrument and submit information collection plan to OMB.	Dec. 29, 1989
Publish in Federal Register notice of survey submission to OMB.	Jan. 5, 1990
Obtain sampling frames for each stratum.	Feb. 16, 1990
Receive OMB approval of survey (expedited).	Feb. 20, 1990
Mail notification letters to survey targets.	Feb. 23, 1990
Pre-test telephone interviewing.	Mar. 9–23, 1990
Complete telephone interviewing.	May 18, 1990
Perform data tabulations......	June 1, 1990
Integrate survey results into a draft final report.	June 15, 1990

3. Use of Technology To Reduce Burden

Information from the questionnaire will be collected using a computer assisted telephone interviewing (CATI) system. Such a procedure will improve the quality and efficiency of the survey in a number of ways and will also reduce respondent burden. First, since the survey is done via telephone rather than by mail, there is expected to be both an increase in the response rate and a reduction in the cost and time of completing interviews. Further, CATI system responses are entered directly into the computer, eliminating the need for separate recording and coding operations. Also, the computer ensures that the proper sequence of questions is followed automatically. For example, if the response to one question suggests that a follow-up question can be skipped, the computer will automatically move on. The interviewer simply reads the questions as they appear on the screen. In addition, the use of CATI allows the interviewer to omit questions that would not be relevant for the particular establishment being questioned. This system produces a smoothly flowing interview and eliminates any pauses or delays by the interviewer to enter responses by hand or to find the next question. In essence, the computer produces a questionnaire tailored to each establishment.

4. Efforts to Identify Duplication

OSHA and its contractor, CONSAD Research, have conducted an extensive literature review and have explored sources within governmental and private agencies for data that are to be collected from this survey. The findings indicate that there are no attempts to gather, in a systematic, comprehensive, and statistically accurate fashion, the data on occupational exposures to air contaminants in the construction industry that are needed for a regulatory impact analysis.

5. Availability of Data from Existing Sources

OSHA will use data from existing sources to the extent they will be useful. However, due to the limitations of these sources, individually and in combination, they cannot provide all of the unbiased estimates that OSHA needs for this rulemaking effort.

OSHA's IMIS database contains results from exposure samples of hundreds of substances. However, it does not adequately describe the activity causing the exposure, the number of employees represented by the sample, or what controls were in use at the time. In addition, many substances under consideration for this rulemaking have been previously unregulated by OSHA and thus would not be represented in the IMIS database.

NIOSH's Health Hazard Evaluations (HHEs) provide detailed descriptions of specific work sites for some common activities in construction. Although these data are considered accurate and reliable, they are not inclusive. Furthermore, it is not possible, without additional data, to extrapolate or aggregate the data appropriately.

The National Occupational Exposure Survey (NOES) database was developed by NIOSH from a 1982 nationwide survey of about 4,500 establishments. This database provides a preliminary list of chemicals and estimates of the number of exposed employees. However, it does not describe the source and nature of exposure or the exposure level. Furthermore, chemical exposures in the construction industry often occur through the use of materials or products that contain various chemical components. The NOES database does not provide the level of detail necessary to determine the causes and extent of exposure to all chemicals present in construction.

6. Minimizing Small Employer Burden

Many of the establishments in the construction industry are small. Data from these establishments will play an important role in characterizing exposures for a large number of employees. The survey sample will be stratified by large and small establishments to avoid a disproportionate burden on small establishments. To reduce the burden on these establishments, both the total number of establishments surveyed and the number of questions asked have been kept to a minimum. Small establishments within each category will be surveyed in lower proportion to their total number than larger establishments. However, variability in the types of employee exposures limits the ability to reduce the number of small establishments sampled.

7. Consequence of Less Frequent Collection

This is a one-time, non-recurring survey. The consequences associated with less frequent collection are not applicable.

8. Consistency with 5 CFR 1320.6

There are no special circumstances that require the collection of information in any manner inconsistent with the guidelines in 5 CFR 1320.6.

9. Expert Review of the Survey Questionnaire

The survey design team has had discussions with industry experts in order to assess the substance of the survey questions. The clarity of instructions and other specific survey design elements have been reviewed by contractor survey experts and OSHA personnel.

A. The survey instrument has been reviewed in December of 1989 by:

Dr. Hugh Conway, Office of Regulatory Analysis, OSHA, 202–523–9690;

Mr. Edward Stern, Office of Regulatory Analysis, OSHA, 202-523-7283;
Mr. Jens Svenson, Office of Regulatory Analysis, OSHA, 202-523-7177;
Dr. Fredrick Reuter, CONSAD Research, 412-363-5500;
Mr. Alex Botkin, CONSAD Research, 412-363-5500;
Mr. Daniel Adley, Schneider Engineers, 412-221-1100.

B. No major problems arose during this review.

C. Public comment will be solicited through the Federal Register notice for the study.

10. Confidentiality

Procedures have been developed to protect the confidentiality of the collected data. These measures are summarized below:

A. All contractor and subcontractor personnel will be given instructions regarding the importance of keeping all information they obtain from respondents confidential.

B. The data will be collected using a Computer Assisted Telephone Interviewing (CATI) system. This technology enables the survey responses to be automatically written to a computer data file. Neither the name of the company nor the respondent will appear in the data file. A listing of respondents will be kept separately in a locked file cabinet at the contractors's office, and will be destroyed when no longer needed. The respondents' names will be linked to the data base through a unique number assigned at the time of the interview.

C. Publications of study results will be of a statistical nature only. Respondents will never be identified in any publication of presentation, nor will their names be made available to other individuals or groups.

11. Sensitive Questions

The proposed survey instrument contains no questions of a sensitive nature.

12. Costs

The total one-time cost to the government of the proposed data collection is $240,000. This estimate includes costs incurred by contractors for administration and operation of the data collection, tabulation of survey results, and subsequent analyses. The total one-time cost to the construction establishments is estimated to be $16,963 (using an administrative wage rate of $20.45 an hour including fringe benefits).

13. Estimate of Respondent Reporting Burden

An estimatated 1625 firms will be contacted for the survey. A nonrespondent rate of 20 percent for large firms and 40 percent for small firms or a total of 432 nonrespondent firms is assumed. The time to complete a survey depends on several factors, such as the number of construction activities a firm is engaged in or whether the firm will share monitoring data. Thus, several categories of respondent burden are estimated in Table 1.

TABLE 1.—RESPONDENT BURDEN ESTIMATE

Type of respondent	Number of respondents	Average completion time (min)	Total burden (hours)	Respondent cost (dollars)
Nonresponse	216	5	18.00	368
Nonresponse	216	10	36.00	736
Complete	477	35	278.25	5,690
Complete	477	40	381.00	6,503
Complete	239	45	179.25	3,666
Totals	1,625		829.50	16,963

14. Changes in Burden

This request does not involve any changes in burden.

15. Tabulation/Publication Timetable

The survey results will be placed in the relevant OSHA docket in whole or in part by OSHA as deemed appropriate as soon as complete computer files are finalized. Analysis of the data will appear in the preliminary regulatory impact analysis to be published with the proposed rule.

B. Statistical Methodology

1. Description of the Respondent Universe and Sample Allocation

The underlying universe for this sample is all firms in the construction industry, in Standard Industrial Classification (SIC) codes 15, 16, and 17. These are the firms that are subject to air contaminant regulation under 29 CFR 1926.55.

The sample is allocated over the 24 cells shown in Table 2. The estimates of the population sizes are based on the 1987 Census of Construction and 1986 County Business Patterns. The sample is divided into large and small firms. Small firms are those that have 19 or fewer employees.

The sample frame will consist of data compiled by Dun and Bradstreet. This is a nationally based list, containing establishment names as well as each establishment's addresss, telephone number, SIC code, and number of employees. The Dun and Bradstreet data base is regularly refined (every six months), thus minimizing the probability of obtaining out of business or out of scope (e.g., wrong SIC code) establishments when using the frame. The Dun and Bradstreet information is a commercial listing and its use does not violate any confidentiality requirement associated with other frames available to particular agencies in the government.

2. Stratification and Sample Selection

Stratification cells numbered 1 to 24, large and small, are defined on the basis of the SIC codes and firm size. SICs 1521, 1522, and 1531, representing residential housing builders, are grouped together because they tend to involve replicates of the tasks which are isolated in SICs 16 and 17. That is, activities in SICs 16 and 17 generally include all those that are in SIC 15 but at a larger scale; firms in SICs 16 and 17 also are often subcontractors to the firms in SIC 15.

TABLE 2.—SAMPLE SIZE ALLOCATION

SIC	Stratum	Total firms	Total employment	Required sample	Telephone sample
All	All	652,585	5,647,191	1,193	1,625
1521 1522 1531	1 Large	22,889	266,860	82	102
	1 Small	97,580	390,320	14	24
1541	2 Large	1,067	93,789	30	37
	2 Small	6,045	50,502	12	20
1542	3 Large	4,547	318,609	33	42
	3 Small	27,032	171,558	12	19
1611	4 Large	2,401	221,661	35	44
	4 Small	8,512	62,520	12	20
1622	5 Large	227	7,916	65	81
	5 Small	908	44,859	12	20
1623	6 Large	1,973	29,384	55	69
	6 Small	7,892	166,507	12	20
1629	7 Large	2,951	44,969	55	69
	7 Small	11,802	254,822	12	20
1711	8 Large	6,958	330,683	39	49
	8 Small	62,623	281,693	14	23
1721	9 Large	1,497	71,414	17	21
	9 Small	28,447	98,619	16	26
1731	10 Large	4,637	277,445	35	44
	10 Small	38,487	177,655	13	22
1741	11 Large	2,790	102,721	26	32
	11 Small	20,464	65,674	16	27
1742	12 Large	3,378	183,550	29	36
	12 Small	14,399	67,889	13	22
1743	13 Large	497	16,653	37	46
	13 Small	4,473	17,333	15	24
1751	14 Large	1,788	83,820	23	29
	14 Small	33,972	106,679	16	27
1752	15 Large	503	18,776	26	32
	15 Small	7,887	27,020	16	26
1761	16 Large	3,332	132,748	34	42
	16 Small	22,295	100,143	14	23
1771	17 Large	2,334	126,081	29	36
	17 Small	21,006	91,300	14	23
1781	18 Large	142	5,244	35	44
	18 Small	3,412	12,839	15	25
1791	19 Large	928	45,905	30	38
	19 Small	2,937	17,607	12	20
1793	20 Large	803	22,711	22	28
	20 Small	3,921	19,347	13	22
1794	21 Large	1,344	53,022	34	43
	21 Small	12,094	43,381	15	25
1795	22 Large	215	9,659	32	40
	22 Small	1,052	4,758	14	23
1796	23 Large	940	47,593	30	38
	23 Small	2,819	15,029	13	21
1799	24 Large	1,913	89,947	31	39
	24 Small	22,003	101,429	13	22

The sample design is based on the objective of producing a set of estimates at a predefined level of accuracy. Since many variables may ultimately be estimated from the survey, and since no single design can be optimal for all estimates simultaneously, it is customary to define a representative variable for estimation. For this survey, the number of employees in each establishment was used to estimate variability. Statistical theory dictates that responses be concentrated in groups which have the highest variability. Consistent with the notion that the variability in activities and numbers of workers exposed as well as the variability of cost required to remedy an overexposure are highest in the largest companies, the sample was designed to include a higher proportion of larger establishments.

Estimates of the mean and standard deviation of employment for each cell were made based on Census and County Business Pattern data. The sample size was based on an accuracy tolerance of 2.8 percent and a confidence factor of 97.5 percent. The tolerance level represents the allowable difference permitted between the estimate and its true population value. The confidence factor indicates the degree to which repeated trials using sample data will produce the same results. Sample sizes for each of the cells were determined using proportional allocation based on standard deviation.

3. Response Rates

The survey is voluntary and is expected to yield a response rate of 80 percent of in-scope cases for large firms and 60 percent for small firms. This difference is due to an anticipated difficulty in contacting small firms which may not have full-time office staff or may have time constraints on the owners/managers which could reduce response. Experience in prior surveys indicates that these response rates using

Dun and Bradstreet sample frame data for a telephone survey represent a reasonable expectation.

The survey will be performed using a computer assisted telephone interviewing (CATI) system. The use of CATI permits quick data entry and simplifies the time-consuming complex skips and loops that would be needed in a paper and pencil interview method.

Prior to being interviewed, each prospective respondent will receive a letter, signed by the Assistant Secretary for OSHA, describing the voluntary survey and soliciting the firm's participation. The letter will include a reply post card which will allow the firm to designate a particular individual as the firm's respondent or to request a written version of the survey instrument.

Interview staff will also be scheduled to work in evening hours so that small firm owners can be more easily contacted.

4. Tests of Method and Procedure

Prior to commencing the main survey, a small sample group of approximately 60 firms representing each of the survey cells will be pretested. This pretest has multiple objectives. It will assure that the CATI system and its complex question loops will function properly; it will test the responsiveness of construction firms to telephone surveying; and it will confirm the understanding of the intent of the survey questions by the respondents.

If a significantly low response rate is observed or some other serious problem is encountered which may threaten the effectiveness of collecting the data in this manner, OSHA will reevaluate its plans for the full CATI survey and the data will be gathered using other methods. Additional site visits may be substituted as an alternative.

OSHA proposes to conduct 30 site visits to supplement the survey (up to 60 site visits if the full survey is not implemented) and observe the types of construction activities being described by the surveyed firms. These site visits will be concurrent with the interview process. Data from site visits will be compared with survey data to check for consistency with actual operations in progress and verify exposure estimates.

5. Expert Review

The statistical aspects of the survey design have been reviewed by:

Dr. Fredrick Reuter, CONSAD Research, 412–363–5500

Mr. Alex Botkin, CONSAD Research, 412–363–5500

Mr. Jens Svenson, OSHA/ora, 202–523–7177

C. Survey Instrument

____________, 1990 OMB Approval

Name

____

Address

____

____

____

Dear ____________:

The objective of the Occupational Safety and Health Act of 1970 is to provide a safe and healthful workplace for all employees in the United States. To help achieve this objective, CONSAD Research, a contractor for the Occupational Safety and Health Administration (OSHA), is conducting a survey to support an assessment of the technological and economic feasibility of lowering the permissable exposure levels (PELs) for air contaminants present in the construction industry. Your establishment has been selected to participate in this survey. An interviewer will be calling you in approximately two weeks to ask some questions about activities that your establishment performs and associated work practices and exposures.

The information you can provide is essential to OSHA's rulemaking process, and will help ensure that the Agency's regulatory impact analysis reflects the actual effects that a new regulation may have on establishments such as yours. Questions will be asked on activities performed during a recent project, on the extent of employee exposure to chemicals or other air contaminants during those activities, and on the types of controls or work practices that are used. Any information on exposure levels, such as monitoring data, would be very helpful. Participation in the survey is voluntary; all responses will be kept strictly confidential and will not be identified by name in any reports or data compilation submitted to OSHA.

For your convenience, a postage-paid response card is enclosed. Please return this within one week, indicating the most qualified person to contact for the survey and the day(s) or time(s) that would be best to call. You may also request a written version of the survey if you prefer. Questions about this survey can be directed to the survey supervisor at: CONSAD Research, 121 North Highland Avenue, Pittsburgh, PA 15206, 412–363–5500.

We estimate that it will take less than 40 minutes, on average, per complete response for this survey. If you have any comments regarding this estimate or any other aspect of this survey, including suggestions for reducing this burden, send them to the Office of Information Management, Department of Labor, Room N1301, 200 Constitution Avenue, NW, Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Thank you for your time and assistance and we look forward to receiving your valuable input.

Sincerely,

____

Assistant Secretary for OSHA

Enclosure

Questionnaire for PELs in Construction—CONSAD Research Corporation—Draft

December 8, 1989.

(Place contact information label here)

Interviewer Last Name

____

Contact made with:

____

Date

Name

____

Phone

____

Contact Log

Date

____

Time

____

Notes

____

Result Code

____

Result Codes:

0 Non-working phone/Out of business **1** Out of Scope SIC or no construction work **2** Not a Business **3** Duplicate **4** Could not reach in five **5** Initial Refusal **6** Communication barrier **7** Mid-interview termination **8** Completed **9** Delay/Reschedule **10** Mail survey form.

Introduction

Hello, my name is ________ and I am with CONSAD Research Corporation. We are conducting a study on behalf of OSHA, the Occupational Safety and Health Administration.

Recently on (date on label) we sent you a letter which outlined this study and described the types of questions we would be asking you.

Did you receive this letter?

If Yes

In the letter we asked for your company to designate someone to respond, are you the person we should interview?

If No

Who should I speak with?

If yes

I would like to interview you now if it is convenient.

If No

When could we make an appointment to conduct this interview?

Continue as Appropriate

If No

The letter was sent to give name and address on label. But may I describe the purpose of the survey and the type of questions I would be asking so that you can determine who would be the appropriate person in your firm for me to interview?

If No

Would you like me to have another letter sent?

If Yes

May I have the name and address of the person who should receive this letter?

Continue as Appropriate

When ready to begin

Enter Survey I.D. CODE ________

Question 1

First let me confirm some information concerning your company. Your firm is classified in SIC (read number and description from contact sheet label). Is this how your firm should be described?
If No then ask:
What is your preferred classification?
If between 1500–1799 then
Enter SIC: ________
If outside scope then terminate:
Enter SIC from label if SIC unknown by respondent
Enter 0000 if "Don't Know, No Response/ Refusal" If DK, NR/Ref. determine if firm is in construction industry. If it is not, you may terminate
______ Terminate

Thanks for your time. We are interviewing firms who are actively involved in construction"

Question 2

Is there any further information you can give me about your company's line of business that would help us to better understand your services?
______ Yes
______ No, DK, Ref

Question 2a

Please describe your business:
____

If description of activities does not match that of any construction-related activity, then PROBE to assure yourself that firm is in the construction industry. If it IS NOT you may terminate interview. This is particularly important if respondent did not know firm's SIC.

Special Note: Hazardous Waste Site Remediation as a principal or primary activity is OUT OF SCOPE.

Interviewer Question 2b

______ Continue
______ Terminate

Question 3

Because work conditions and contractual relationships vary from one contract to another, when you respond to my questions, I would like you to describe a jobsite where your company has recently finished working.

The project must have had your employees or employees of a wholly owned subsidiary involved in the actual construction work itself.

I will then ask you a series of questions concerning the activities that your workers perform, the chemicals that they may be exposed to, and the methods of protection from exposure that you employ.

Can you think of an appropriate project to describe?
(Probe)

First let me get some basic information on the project jobsite that you will describe.

Was your firm the general contractor or a subcontractor?
____ General
>Go to Question 3a
____ Subcontractor/Specialty contractor
>Question 4
____ Contract Manager
>Go to Question 3b
____ Prime Contractor
>Go to Question 3b
____ Other
Ask for description
____
____
____
>Go to Question 3b
____ Don't Know/Refused
>Question 4

Question 3a

As general contractor did you subcontract all of the construction work?
____ Yes, all construction work
>Choose new project—Question 3
____ No, Don't Know/Refuse
>Go to Question 4

If YES, Confirm that firm's own employees were involved in project work. If all work was done by others then ask respondent to respond with another project as the basis for survey response and then continue. If none of the firm's projects involved its own workers then terminate the interview
____ Continue
____ Terminate

Question 3b

Were any of your employees actually involved in construction activities, other than supervision or management of contractors?
____ Yes
>Go to Question 4
____ No
>Go to Question 3
____ Don't know/Refuse
>Go to Question 4

If answer is NO, confirm that firm's own employees were not involved in project work. If not, ask respondent to respond with another project as the basis of response for survey and continue. If firm cannot provide another project, then terminate the survey
____ Continue
____ Terminate

Question 4

What type of project was this ______ commercial ______ retail building ______ residential.
____Single residential
(Probe—Select one)
____ Multiple residential
____ Residential additions and alterations
____ Industrial buildings
____ Office buildings
____ Hotels and Motels
____ Other Commercial, i.e. retail, shopping centers, car wash
____ Miscellaneous non-residential (religious, educational, hospital and institutional)
____ Public utilities (telephone, gas, electric, railroad)
____ Highways and streets
____ Conservation and Development i.e. Federal/State Dams, Corp of Engineers projects
____ Other public construction (sewer, water)
____ Military facilities i.e. bases, air fields
If no match is CLEARLY apparent, then enter description under "Other".
____ Other
(Ask for description)
____

Question 5

Was this project a new construction or a remodeling or a demolition project?
____ New construction
____ Remodeling/Reconstruction
____ Demolition (only)

Question 6

Could you give me some feel for the approximate size of the project using some physical deminsion such as square feet or miles?
__________ acres
__________ cubic yards
__________ lineal feet
__________ square feet
__________ miles
__________ tons of steel
__________ other
____
____ Don't Know / Refused
Enter complete amount

Question 7

What was the approximate contract dollar value of all work by all contractors at this worksite?
__________ dollars
____ Don't Know / Refused
Enter complete amount

Question 8

What was the approximate contract dollar value or percent of the total for your company?
__________ dollars
__________ percent
____ Don't Know / Refused
Enter complete amount

Question 9

How many months, weeks, or days were your firm's employees actually working at this site?
____ months(s) for
______ days per weeks
____ week(s) for
______ days per week
____ day(s)
____ Don't Know/ Refused
Convert years to months

Question 9a

How many shifts per day did your employees normally work?
__________ shifts
and how long were the shifts?
__________ hours
>Go to Q 10a if Shifts >1

Question 10

During the time your firm was involved at the site, what do you estimate was the average and maximum number of your employees at the jobsite per shifts?
Enter values in two places or one in "Don't Know/Refused All"
__________ Average
_ Maximum
_ Don't Know Average
____ Don't Know Maximum
____ Don't Know/ Refused All

Question 10a

During the time your firm was involved at the site, what do you estimate was the

average and maximum number of your employees at the jobsite during the (first, second, third) shifts

Enter values in two places or one in "Don't Know/Refused All"

____ Average
____ Maximum
____ Don't Know Average
____ Don't Know Maximum
____ Don't Know/ Refused All

CATI will return to the question one, two or three times depending upon the number of shifts specified in Question 9a

Question 11

Was there a full-time or part-time health and safety professional present at this jobsite? (Probe—Select one)

____ Yes, Full-time
____ Yes, Part-time
____ No, called on "as needed" basis by one of the contractors or by contract manager
____ No, None on site
>Skip to Question 12
____ Don't Know/ Refused
>Skip to Question 12

Question 11a

Whose employee was this person?

____ Our employee or employee of our safety and health subcontractor.
____ General or Prime Contractor's employee or employee of its safety and health subcontractor.
____ Contract Manager's employee or employee of its safety and health subcontractor.
____ Don't Know/ Refuse

Question 12

Please tell me which of the following types of work was your firm and any wholly owned subsidiary firm responsible for on this specific project.

Read List

____ Water, Sewer, Utility line installation
____ Plumbing, Heating, Air Conditioning
____ Painting,
____ Electricical Work
____ Masonry, Stonework, Plastering
____ Carpentry
____ Roofing Siding and Sheet Metal
____ Concrete Work
____ Drilling
____ Steel Erection
____ Glass, Glazing, Curtain Walls
____ Excavation
____ Wrecking and demolition
____ Contract Management

(Question 12a)

If a category is described for which no match is CLEARLY apparent, then enter description under "New Category"

Is there another general category you could identify for me?

____ Yes, New Category
____ No
____ Don't Know / Refused
>Terminate interview

(Question 12b)

Could you describe it for me?

____
____
____

Question 13

Next I am going to ask you about specific construction activities that may create fumes, dust, or other air contamination or may present a skin contact hazard. I have a list of activities that are common for firms that are responsible for the categories that you previously indicated were performed by your firm on this jobsite:

Once I finish my list of activities, you may add any additional activities you know your firm had performed.

When your workers were doing CATEGORY N, Did you have workers who performed ACTIVITY N?

____ Yes
____ No

Read names on screen

Question 13a

That concludes the predefined activities that we have for firms performing the types of work you described earlier.

(On return CATI will show only below)

Do you have any additional activities that you believe may expose workers during CATEGORY N activities?

____ Yes
>Question 13b
____ No
>To Question 13, On last to Q 14

Question 14

Do you have any specific activities that you believe may expose workers to air contaminants or dermal exposure during CATEGORY ADDED activities?

____ Yes
>Question 14a
____ No
>Question 15
____ Don't Know/Refuse
>Question 15

Questions 13b and 14a

Please describe that activity.

____
____
____

>Return to Question 14 or 13a

Question 15

During ACTIVITY N, there are air contaminants or chemicals that we believe workers may be exposed to. I will read you a list of those that we believe are the most common chemicals and a typical source of the exposure. For each of these, could you then tell me if your workers encountered this hazard during the project you are describing?

ACTIVITY N

READ

Chemical 1, Source 1
Enter (Y/N/DK)____
Chemical 2, Source 2
Enter (Y/N/DK)____
Chemical 3, Source 3
Enter (Y/N/DK)____
Chemical 4, Source 4
Enter (Y/N/DK)____
Chemical 5, Source 5
Enter (Y/N/DK)____
Chemical N, Source N
Enter (Y/N/DK)____

Question 16

Are there any additional chemicals or air contaminants or products that your workers were exposed to during ACTIVITY N?

____ Yes
>Go to Question 16a
____ No
>Skip to Question 17
____ Don't Know/Refused
>Skip to Question 17

Question 16a

Could you give me the chemical or product name and/or the source of the exposure?

____ No
____ Don't Know/Refuse
>Return to Question 16

Chemical Name
____

Source of Exposure
____
____

Product Name/Mfr.
____
____

>Return to Question 16

(If respondent gives product name, ask for spelling and manufacturers name or distributors name/address)

Question 17

For the activity ACTIVITY ADDED, which you added to our list, we do not have any predefined names of chemical exposure sources.

Could you give me the chemical or product name and/or the source of the exposure during this activity?

____ Yes
____ No
____ Don't Know/Refuse
>Continue to next ACTIVITY ADDED or Question 18

Question 17a

Chemical Name
____

Source of Exposure
____
____

Product Name and Manufacturer
____
____

>Repeat this for next chemical

(If respondent gives product name, ask for spelling and manufacturers name or distributors name/address)

Question 18

This question will be optional; its use will depend upon the specific activity. The question will ask about volumes of building materials used, such as:

How many gallons of paint containing a toluene solvent did you use on this project? or,

How many pounds of welding rod did you use in the welding of stainless steel ornamental ironwork during this project?

Question 19

Continuing with Activity,

How many work crews per shift on average did you have engaged in this activity?

____ crew(s)
____ Don't Know/Refuse

Question 20

For Activity,

Typically, how many workers were directly involved in performing this activity in each work crew or team?

_____ Workers
_____ Don't Know/Refuse

Question 21

How many months, weeks, or days did your crews employees actually work on ACTIVITY

_____ month(s) for _____ days per weeks
_____ week(s) for _____ days per week
_____ day(s)
_____ Don't Know/Refused
Convert years to months

Question 22

How many shifts per day did you have a crew working on this activity?

_____ shifts
_____ Don't Know/Refuse
Enter 99 for irregular on "or call" shifts

Question 23

On average when your workers were performing Activity how long was each period of exposure?

_____ minutes
_____ hours

Question 24

How often did this exposure period occur?

_____ times per day (24 hr across all shifts)
_____ times per week
_____ times per month

Question 25

Did your firm provide respiratory protection equipment of any type for workers engaged in ACTIVITY?

_____ Yes
> Go to Question 25a
_____ No
> Skip to Question 26
_____ Don't Know/Refuse

Question 25a

What type of respiratory protection did the workers use? PROBE

_____ Handkerchief tied around face
_____ Disposable Mask
_____ Half Mask canister and/or cartridge
_____ Full Mask canister and/or cartridge
_____ Powered Air Purifying Respirator (PAPR)
_____ Air Line (Full or Half Mask)
_____ Sand blast hood with airline
_____ Self Contained Breather Apparatus
If no match is CLEARLY apparent, then enter description under "Other".
_____ Other
Ask for description

____

See appendix D for more information

Question 25b

How many of the workers on a crew were wearing this protection?

_____ All workers
_____ Number of workers
_____ aPercent of workers
_____ Don't Know/Refuse

Question 26

Did the firm provide other kinds of personal protective equipment for use in preventing contact with or inhalation of chemicals during ACTIVITY.

_____ Yes
> Go to Question 26a
_____ No
> Go to Question 27
_____ Don't Know/Refuse

(Question 26a)

Please describe them for me.

_____ Gloves (cotton)
_____ Gloves (leather)
_____ Gloves (of special material, other than cotton or leather)
_____ Safety Boots
_____ Boots or overshoes (of special material, other than steel toe safety boots)
_____ Eye and face protection (Including welding helmet/mask)
_____ Aprons or sleeves or jackets
_____ Leather Aprons or sleeves (for Welders)
_____ Suits of special material
_____ Hats or helmets (other than safety hats)
If no match is CLEARLY apparent, then enter description under "Other".
_____ Other equipment

____
____

Question 27

Other than personal protective equipment, Did you have any specific work practices that were employed to control air contaminants or dermal exposure during ACTIVITY?

_____ Yes
_____ No
> Go to Question 28
_____ Don't Know/Refuse

Question 27a

Please describe the work practices.

_____ Wet sweeping or mopping
_____ Water spray (or hose)
_____ dry sweeping (broom or mop)
_____ dry sweeping with dust suppressant compounds
_____ barrier hand (skin) creams
If no match is CLEARLY apparent, then enter description under "Other".
_____ Other
Ask for description

____
____

Question 28

In order to control contact or inhalation of fumes or dusts in ACTIVITY, did you use any engineering controls on this project?

_____ Yes
_____ No
> Skip to Question 29
_____ Don't Know/Refuse

Question 28a

What specific types of controls did you use during ACTIVITY on this project?

Mark All That Apply

_____ Blowers to direct fumes or dusts away from work area
_____ Portable exhaust hoods and fans
_____ Fresh air supply blowers
_____ Screens or partitions to separate the source of the emission
_____ Total enclosure to confine the emission
_____ Total enclosure of the worker
_____ Equipment mounted dust catchers
_____ Vacuum cleaning of area
_____ Water spray (truck)
If no match is CLEARLY apparent, then enter description under "Other".
_____ Other
Ask for description

____
____

Question 29

Did you have any specific administrative controls that were employed to control air contaminants or dermal exposure for ACTIVITY?

_____ Yes
_____ No
> Continue to Question 30
_____ Don't Know/No response

Question 29a

_____ Personal Hygiene (cleanup before eating)
_____ exposure monitoring (personal constant monitoring)
_____ Restrict site access
_____ frequent rest periods
_____ crew rotation
_____ medical exams (screening)
_____ recordkeeping
_____ information and training
_____ weather restrictions
If no match is CLEARLY apparent, then enter description under "Other".
_____ Other
Ask for description

____
____

Question 30

Did you ever perform any air sampling in order to measure worker exposure during Activity at the project we are discussing or during any similar project?

_____ Yes, at this project
_____ Yes, but at another project that was similar
_____ No
>Go to next activity
_____ Don't know/Refuse

Note continuous personal monitoring max level data cannot be used.

Question 30a

What chemicals have you monitored for during Activity?

List of Chemicals from Questions 15–17.

1. ____________________
2. ____________________
3. ____________________
4. ____________________
5. ____________________
6. ____________________

_____ Other

____

_____ Don't Know/No Response
> Return to next activity
_____ Will send in data

Question 30b

Do you know what the exposure level was for CHEMICAL N during ACTIVITY?
_____ Yes
> Continue to Q 30c
_____ No
> Go to next chemical
_____ Don't Know
_____ Refused to give
> Go to next activity
_____ Will send in exposure data
> Go to next activity

Question 30c

Are these actual or an estimate or average?
_____ Actual
_____ Estimate or average

Question 30d

The (1st–6th) exposure level that you have for this chemical is:
ENTER Value on appropriate line
_____ ppm (parts per million)
_____ mg/m3 (milligrams per cubic meter)
For Silica only _____ percent silica
_____ fibers per cubic centimeter.
measured as a: (Mark appropriate line)
_____ 8 hour TWA (Time weighted average)
_____ 15 minute STEL (Short term exposure level)
_____ ceiling
_____ minutes
and was taken as a: (Mark appropriate line)
_____ personal monitoring
_____ area monitoring
Do you have another measurement?
_____ more
_____ no more
Go to next measurement or next chemical
At end of sixth measurement CATI will also display:

We can accept up to six chemicals by telephone for each activity, if you have more that you wish to give us we would ask that you submit them by mail.

I will give you the name and address of the person to send the information to and the survey ID code that identifies your response at the end of this survey.

Question 31

We are almost finished with the survey.

I would like to ask you a few questions about your firms size and business volume in order to compare them with industry-wide statistics that will be created through this survey.

What year was your firm founded? PROBE
_____ year
_____ don't know specifically, more than 50 years ago
_____ don't know specifically, more than 25 years ago
_____ don't know specifically, more than 10 years ago
_____ don't know specifically, more than 5 years ago
_____ Don't Know/No response

Question 32

How many employees do you estimate the firm and all its wholly owned subsidiaries and divisions have?
_____ Employees
_____ Don't Know/Refuse

Question 33

What do you estimate were the firms sales in the most recent year?
_____ dollars
_____ Don't Know/Refuse

Conclusion

Thank you for your interest and assistance. Occupational Safety and Health Administration (OSHA) is grateful to you and your firm for the time you have devoted to this survey.

As needed CATI will display the following:

You indicated earlier that you would be interested in submitting additional exposure information.

This information should be sent to:

CONSAD Research Corporation, 121 N. Highland, Pittsburgh, PA 15206

Please mark the outside: PELS Project, Confidential Data

Your survey ID number is _____ (From contact sheet label)

Thank you.

The CATI will record the following:

Date and Time Begun

Date and Time Ended

[FR Doc. 90-206 Filed 1-4-90; 8:45 am]

BILLING CODE 4510-26-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 January 15, 1990.

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 January 15, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 26th day of December 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition number	Articles produced
AT&T Material Mfg. Systems (CWA#9495)	San Leandro, CA	12-26-89	12-7-89	23,756	Telecommunication equipment.
AT&T Material Mfg. Systems (CWA#7795)	Denver, CO	12-26-89	12-7-89	23,757	Telecommunication equipment.
Baret Bias Binding, Inc. (ILGWU)	East Newark, NJ	12-26-89	12-11-89	23,758	Binding.
Data General Corp. (Workers)	Westbrook, ME	12-26-89	11-30-89	23,759	Computer cabinets/disk drives.
Eastland Woolen Mill, Inc. (Company)	Corinna, ME	12-26-89	12-8-89	23,760	Wool textiles.
Leonace Bag & Import Co. (Workers)	East Newark, NJ	12-26-89	11-30-89	23,761	Cotton bags.
McWilliam Forge (Workers)	Rockaway, NJ	12-26-89	11-30-89	23,762	Steel forgings.
Norbalt Rubber Corp. (URW)	N. Baltimore, OH	12-26-89	12-6-89	23,763	Rubber hoses.
Precision Well (Workers)	Mt. Carmel, ILL	12-26-89	12-13-89	23,764	Oil well.
Roy Calcote & Sons Oilfield Construction, Inc. (Workers)	Winters, TX	12-26-89	11-16-89	23,765	Oil field service.
Roys Oil Tools (Workers)	Healdton, OK	12-26-89	12-14-89	23,766	Tool rental.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition number	Articles produced
Western Oilfield Service (Workers)	Healdton, OK	12-26-89	12-14-89	23,767	Oil drilling.

[FR Doc. 90-288 Filed 1-4-89; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Proposed Performance Standards for Program Years (PYs) 1990 and 1991

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed revisions to the Secretary's Performance Standards; request for comments.

SUMMARY: The Department of Labor is announcing proposed revisions to the performance standards for adult and youth programs and dislocated worker programs under the Job Training Partnership Act. The performance standards will be effective for programs in Program Years (PYs) 1990 and 1991 (July 1, 1990–June 30, 1992).

DATE: Written comments are invited from the public. Comments must be submitted on or before January 25, 1990.

ADDRESS: Comments shall be addressed to the Assistant Secretary of Labor, Employment and Training Administration, U.S. Department of Labor, Room N5310, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Steven Aaronson, Chief, Adult and Youth Standards Unit.

Paperwork Reduction Act: This regulation involves no information collections or other paperwork requirements on the public.

FOR FURTHER INFORMATION CONTACT: Steven Aaronson. Telephone (202) 535-0687.

SUPPLEMENTARY INFORMATION:

Introduction

Section 106 of the Job Training Partnership Act (JTPA of Act) requires the Secretary of Labor (Secretary) to prescribe performance standards for adult and youth training programs under JTPA Title II-A, and for JTPA Title III as amended by the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA). The Secretary may modify these performance standards no more than every two years, and such modifications cannot be retroactive.

To measure and achieve national goals of long-term employability and economic self-sufficiency, the following six core standards are proposed for Title II–A for Program Years (PYs) 1990 and 1991 (July 1, 1990–June 30, 1992): the Adult Follow-Up Employment Rate; Adult Weekly Earnings at Follow-Up; the Welfare Follow-Up Employment Rate; Welfare Weekly Earnings at Follow-Up; the Youth Enetered Employment Rate; and the Youth Employability Enhancement Rate. For Title III/EDWAA, data will not be available until August 1990 at the earliest. Therefore, it is the Department's intention to maintain the current title III standards through the PYs 1990–1991 cycle. Once needed data are available, review and analysis can be done to make appropriate changes to title III performance standards.

The title II–A core measures represent both a reduction in the overall number of national measures that are currently required (Governors must currently select eight from a menu of 12), and a shift in emphasis to reward programs successfully serving adults based on postprogram outcomes. A new measure—Welfare Weekly Earnings at Follow-up—is proposed because wages are the best proxy available for assessing a "good" job leading to reduced welfare dependency. In addition, cost measures have been excluded from the core measures in support of the Department's policy goal of fostering improved service to more at-risk individuals.

The Department did consider including a measure of employment intensity: Average Number of Weeks Worked in the Follow-up Period—one of six postprogram data elements collected since PY 1986 and one of the twelve measures on the performance standards menu for PYs 1988–1989. It was initially believed that this measure could provide us with another dimension of performance—job intensity or retention in employment—and that it could be a valuable addition as a standard.

However, review of recent program performance data revealed that SDA performance on the employment rate at follow-up and weeks worked at follow-up are highly correlated and, from a statistical point of view can be viewed as alternative measures of the same dimension of performance, i.e. they are redundant. In the interest of streamlining the JTPA Performance Standards in accordance with the recommendations of the JTPA Advisory Committee, the Performance Management Task Force suggested that any redundant measures be dropped. The Department continues to view job retention and stable employment patterns as essential outcomes of a successful program, and requests comment on whether the proposed performance standards adequately recognize and reward SDAs with good performance in this area.

Therefore, the Department chose not to include Follow-up Weeks Worked among the Secretary's Standards for PYs 1990 and 1991. The Weeks Worked at Follow-up measure was selected by only a few Governors for incentive purposes for PY 1988 and the follow-up employment rates were frequently selected; thus, it is assumed that correlations between these measures would remain constant if we set follow-up employment rates without setting a weeks worked measure for PY 1990. The Department intends to monitor the correlation between these two measures to verify that they continue to be redundant in PY 1990.

Data collection will continue on the non-core outcomes (*e.g.*, the Entered Employment Rate) for public information purposes and model development to enable Governors to utilize them as State policy dictates. Data on costs will continue to be collected for day-to-day management purposes to ensure the proper and efficient use of funds. However, cost measures may no longer be used for incentive awards. New numerical levels for the core standards are proposed to reflect the most recent JTPA program experience.

To measure the immediate goal of obtaining reemployment for dislocated workers, the entered employment rate will be the only standard required for title III/EDWAA programs for the next two program years. An optional wage at placement or other appropriate measures may be adopted by Governors.

A. Purpose of Performance Standards

The Secretary of Labor (Secretary) issues performance standards pursuant to Section 106 of the Job Training Partnership Act (JTPA or Act) in order to indicate whether the basic objectives of JTPA, increased earnings and

employment and reduced welfare dependency, are being met (29 U.S.C. 1516). On the basis of the Secretary's performance standards, Governors must set standards for each of their service delivery areas (SDAs) and substate areas (SSAs).

Since JTPA's inception, adult and youth programs have been assessed based on measures of employment, wages and, for youth, other positive non-employment outcomes, at the time the participant leaves the program. In PY 1988 the Department of Labor (Department) added four adult postprogram measures aimed at assessing employment, earnings and job retention of JTPA participants three months after leaving the program, and a youth measure to reflect employability enhancements. This brought to 12 the total number of national performance standards available to Governors, from which 8 were to be selected for State use in measuring local program success.

Because postprogram outcomes provide a more direct measure of long-term labor market success, and the quality of postprogram data was found to be adequate for standard-setting, the Secretary is proposing to replace adult termination-based measures with post-program outcomes for the next two program years (July 1, 1990–June 30, 1992). In addition, the positive termination rate has been excluded from the core youth measures because, in combination with the entered employment rate, it deemphasizes the importance of enhancing a youth's employability by providing double credit for those programs that obtain a job for youth without necessarily addressing their basic education or occupational skill needs.

The proposed issuance, appended to this notice, contains implementation instructions for the six core performance measures for Title II–A adult and the required performance measure for EDWAA.

B. Authority to Issue Performance Standards

Section 106 of the Act directs the Secretary to establish performance standards for Title II–A adult and youth and Title III dislocated worker programs.

C. Rationale for the Core Standards

Postprogram data provide a more direct measure of long-term employability. The proposed measures for adults and adult welfare recipients send an explicit policy signal that JTPA is a value-added program which generates long-term employment for its participants, as measured by employment and weekly earnings three months after termination. Placement wages are also a critical factor in reducing welfare dependency. Thus, a new postprogram measure of welfare weekly earnings is proposed as the best proxy for reducing welfare dependency. In addition, requiring two welfare measures reinforces the emphasis in JTPA on serving welfare recipients and anticipates program benefits from linkages with the new Job Opportunities and Basic Skills program (JOBS) (See 42 U.S.C. 681 *et seq.*).

The Department recognizes the value of employment skills attainment and the acquisition of educational credentials. The proposed youth employability enhancement measure focuses program design on skill development, with particular emphasis on dropout prevention. At the same time, employment will continue to be credited as a valued outcome for that segment of the youth population for whom job placement is appropriate. Thus, to avoid penalizing in-school and dropout prevention programs, youth who remain in school will be excluded from the computation of the youth entered employment rate.

D. Rationale for Excluding Cost Measures for Incentives

Research and experience have shown that the use of cost standards in the awarding of incentives has had the unintended effect of constraining the provision of longer-term training programs in many SDAs. This concern is reflected in both the recommendations made by the JTPA Advisory Committee and in the JTPA amendments proposed by the Department of Labor. Consequently, cost standards have not been included among the six core standards to be issued for PY 1990–91.

E. Rationale for the New Numerical Levels

The Secretary's national numerical standards for PYs 1990–1991 are set on the basis of the most recent JTPA performance data available (PY 1988). The numerical values of the standards are generally set so that if SDAs continue to perform in the same manner as they did in PY 1988, 75 percent of the system should exceed their standards. This means that the proposed numerical standards for the four follow-up measures are set at the 25th percentile of PY 88 performance. The level of youth employability enhancements is set at a percentile comparable to previous performance derived from those States that in PY 88 chose a combination of youth standards similar to the proposed core measures. Because the data needed to calculate the redefined youth entered employment rate are not yet available, the youth entered employment rate will remain unchanged from PY 88.

F. Public Comment and Participation

The Department is committed to a participatory process in the development of performance standards through the periodic convening of State, SDA, private industry council (PIC) representatives, and members of public interest groups to address performance standards issues. Five meetings were held between May and November 1989 to provide the Department with necessary field input critical to the development of these standards. This request for comment is another important part of that process.

The Secretary especially requests comments on the following issues:

Elimination of the Menu Approach to Standard-Setting

Will the proposed establishment of a core set of required standards, while still retaining data collection on non-core measures, sufficiently allow a State to use performance standards to further its own policy goals?

Elimination of Cost Standards in Incentives

Will elimination of cost standards as a basis for incentive awards have the intended affect of encouraging more intensive services to hard-to-serve individuals?

Postprogram Standards

Will adult welfare postprogram standards provide greater incentives than outcomes measured at program termination for providing quality training and services to a less employable population? Are these measures a more appropriate indicator of long-term employability and future economic self-sufficiency than termination-based measures? Should Follow-Up Weeks Worked for Adults be included in the core set of required standards?

Youth Standards

In the absence of the Positive Termination Rate, do the two proposed standards measure appropriate outcomes for youth and offer Governors/SDAs the proper balance of program choices?

Signed at Washington, DC this 29th day of December, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

Appendix—Performance Standards for PY 1990

Training and Employment Information Notice ____

Authority: Job Training Partnership Act, Pub. L. 97-300, Section 106, Implementing Regulations, 20 CFR 629.46, March 15, 1983

1. *Purpose.* To transmit to State JTPA Liaisons the Secretary's national numerical standards and implementing instructions for Program years (PYs) 1990 and 1991.

2. *Background.* Section 106 of JTPA directs the Secretary to establish performance standards for adult, youth, and dislocated worker programs (as amended by the Economic Dislocation and Worker Adjustment Assistance (EDWAA) Act). These standards are updated every two years based on the most recent JTPA program experience and on program emphases and goals established by the Department of Labor. The Secretary also issues instructions for implementing standards and parameter criteria for States to follow in adjusting the Secretary's standards for SDAs/SSAs.

3. *Performance Management Goals for PYs 1990-1991.* Program Year 1990 (PY 90) will begin the fourth two-year cycle of the performance management system under JTPA. The effects of performance standards on program design, service delivery, and participants served are reflected in the JTPA Advisory Committee Report and recent legislative proposals. In response, the Department has set the following goals for the performance management system in PY 1990-1991:

- Targeting on a more at-risk population;
- Improving the quality and intensity of services that lead to long-term employability and increased earnings;
- Placing greater emphasis on basic skills development; and
- Promoting service integration with other human resource programs.

These goals are reflected in the Secretary's six core measures, national numerical standards for these measures, and associated reporting requirements. However, Governors retain their discretion to establish additional standards to reflect State policy, to make further adjustments to SDA standards, and to use their authority to develop innovative incentive policies. This, SDAs could be rewarded for successful performance against national priorities and for addressing the Governor's additional program emphases.

This issuance introduces the six required national standards for PY 1990. Included in the six core measures are five currently in use, and one (Welfare Weekly Earnings at Follow-up) which is derived from currently reported data. Data will continue to be reported on, and Governors will be able to use for incentive awards, additional non-cost measures. Cost data will be collected for purposes of program oversight and day-to-day management only. Numercial levels for PYs 1990-1991 are updated and included along with implementing instructions for the standards.

4. *Performance Measures for PYs 1990-1991.* Six performance measures will be used for Title II-A for PYs 1990-1. These measures are the Adult Follow-Up Employment Rate, Adult Weekly Earnings at Follow-Up, the Welfare Follow-Up, Employment Rate, Welfare Weekly Earnings at Follow-Up, the Youth Entered Employment Rate, and the Youth Employability Enhancement Rate.

The adult and welfare follow-up measures will indicate a program's ability to generate long-term employment for participants, as measured 13 weeks after termination. The youth measures reinforce Departmental emphasis on the development of long-term employability skills, including the acquisition of educational credentials and other employability enhancements. By redefinition, the entered employment rate will apply to those youth for whom employment is an appropriate outcome, excluding from the computation of the youth entered employment rate those youth who are in-school and enrolled in dropout prevention programs.

Program data for EDWAA will not be available until August 1990, therefore, the Department will maintain the current standard for PYs 1990 and 1991.

5. *Secretary's National Numerical Standards for PYs 1990-1991.* The Title II-A numerical standards are derived from PY 88 performance data reported on the JTPA Annual Status Report (JASR) and are generally set at a level at which approximately 75% of the SDAs are expected to exceed. Earnings, however, have been adjusted to reflect increased minimum wage rates. The employability enhancement standard for youth is set at a level comparable to previous performance derived from those States that in PY 88 chose a combination of youth standards similar to the two proposed core measures. The level of the youth entered employment rate will remain unchanged from PY 88 as the data needed to calculate the redefined rate are not yet available.

The Secretary's standards for title II-A for PYs 1990-1991 are as follows:

Adults

A. *Adult Follow-Up Employment Rate:* 62%

B. *Adult Weekly Earnings at Follow-up:* $204

Welfare

A. *Welfare Follow-Up Employment Rate:* 51%

B. *Welfare Weekly Earnings at Follow-up:* $182

Youth

A. *Entered Employment Rate:* 45%

B. *Employability Enhancement Rate:* 33%

The Secretary's Standard for title III will remain unchanged from that issued in PY 89 and is as follows:

A. *Entered Employment Rate:* 64%

6. *Implementing Provisions.* The following implementation requirements must be followed:

A. *Required Standards.* For Title II-A, Governors are required to set, for each SDA, a numerical performance standard for each of the six Secretary's measures; for Title III, Governors are required to set, for each substate area (SSA), a numerical performance standard for entered employment.

B. *Setting the Standards.* The Governor may set the standards for SDAs/SSAs by using the Secretary's numerical standards or by adjusting these standards. Such adjustments must conform to the Secretary's parameters described below:

1. Procedures must be:
- Responsive to the intent of the Act,
- Consistently applied among the SDAs/SSAs,
- Objective and equitable throughout the State,
- In conformance with widely accepted statistical criteria;

2. Source data must be:
- Of public use quality,
- Available upon request;

3. Results must be:
- Documented,
- Reproducible; and

4. Adjustment factors must be limited to:
- Economic factors,
- Labor market conditions,
- Characteristics of the population to be served,
- Geographic factors,
- Types of services to be provided.

The Department has developed an adjustment methodology which is available for Governors to use at their option. The Department's methodology conform to the parameter criteria cited above. Should the Governor choose to use an alternate methodology, or further adjust the Departmental model, it must conform to the parameter criteria and be documented in the Governor's Coordination and Special Services Plan prior to the program year to which it applies.

In the case of an appeal from an SDA concerning the imposition of a reorganization plan for failure to meet the performance standards for two consecutive years, the Secretary will make the final decision in accordance with section 106(h) of the Act and 20 CFR 629.46(d). In making this decision, the Secretary will be predisposed to uphold the Governor's determination concerning the application of the performance standards, if the Governor elects to use the nationally developed adjustment methodology to vary the performance standards. If the Governor, however, uses an alternative methodology to vary the standards, the Secretary will review, on a case-by-case basis, the validity of the methodology and its uniform application throughout the State.

The State Job Training Coordinating Council must have an opportunity to consider adjustments to the Secretary's standards and to recommend variations.

C. *Performance Standards Definitions.* Governors must compute the performance of their SDAs/SSAs according to the definitions included in the attachment.

D. *Application of the Performance Standards.* Performance standards for title II-A are to be applied to all programs funded under section 202(a)(1) of the Act. Performance standards may be applied to those programs funded from incentive funds

received under section 202(b)(3)(B). In applying the Secretary's standards, Governors must use the six core measures and may select optional non-cost measures to form the basis of incentive policies as long as the following criteria are met:

1. The Governors must use the six Secretary's measures as the basis for making awards and imposing sanctions.

2. Cost standards cannot be used for incentive purposes.

3. To determine whether an SDA has met/exceeded a performance standard, Governors must use actual end-of-year program data to recalculate the performance standards.

4. Incentive policies may include adjustments to the incentive award amount based upon such factors as grant size, service to the hard-to-serve, intensity of service, and expenditure level.

5. An SDA cannot be precluded from receiving an incentive award in accordance with section 202(b)(3)(B) if it exceeds the six Secretary's measures. Additional non-cost measures can also be considered in making awards.

6. The Governor's policy on sanctions may provide for sanctioning SDAs for missing fewer than all six of the Secretary's measures. However, sanctioning is required if an SDA fails to meet for two consecutive years all six Secretary's measures.

7. Governors must specify their incentive award policy under section 202(b)(3)(B) and sanctions policy under section 202(h). State sanctioning policy must include a definition of "failure to meet" and the timeframe that constitutes the period on which sanction action will be taken. The failure to receive incentive funds for two consecutive years does not necessarily constitute failure to meet the standards under Section 106(h).

8. In PY 1990, Governors will continue to have the discretion to exclude projects funded from incentive actual performance. Consolidated reports for 78% and 6% projects (expenditures and terminee characteristics) will continue to be required on the JTPA Annual Status Reports. Experience has shown that in some SDAs incentive funds are indistinguishable from those used for general training, and therefore should not be exempted from performance standards.

E. *Performance Standards Provisions for Title III.* Performance standards for title III are to be applied to the following programs funded under section 302: all of section 302(c)(1) State activities, and sections 302(c)(2) and 302(d) substate area activities. Performance outcomes will be reported for programs operated under section 302(a)(2) Secretary's National Reserve; however, Standards will not apply.

Explanatory note: Performance outcomes will be reported in lieu of applying performance standards (numerical expressions of minimal acceptable performance) for activities funded under the Secretary's National Reserve because these funds are typically used for one time projects rather than ongoing programming.

While rewards and sanctions are not required for PYs 1990–1991, Governors may use a portion of the 40 percent funds reserved for State activities under section 302(c)(1) for rewarding substate area performance, particularly lengthier, substantive training which will better ensure the long-term employability of participants. Although, no statutory requirement exists for monetary incentivies, Congress requires State plans to include incentives to insure that long-term training is provided for those who need it.

F. *Inquiries.* Questions concerning this issuance may be directed to Steve Aaronson (202) 535–0687.

Attachment

Definitions for Performance Standards

The following defines the title II–A performance standards:

Adult

1. *Follow-up Employment Rate*—Total number of adult respondents who were employed (full-time or part-time) during the 13th full calendar week after termination, divided by the total number of adult respondents (i.e., terminees who completed follow-up interviews).

2. *Adult Average Weekly Earnings at Follow-up*—Total weekly earnings for all adult respondents employed during the 13th full calendar week after termination, divided by the total number of adult respondents employed at the time of follow-up.

Welfare

3. *Welfare Follow-up Employment Rate*—Total number of adult welfare respondents who were employed (full-time or part-time) during the 13th full calendar week after termination, divided by the total number of adult welfare respondents (i.e., terminees who completed follow-up interviews).

4. *Welfare Weekly Earnings at Follow-up*—Total weekly earnings for all welfare respondents employed during the 13th full calendar week after termination, divided by the total number of welfare respondents employed at the time of follow-up.

Youth

5. *Entered Employment Rate*—Total number of youth who entered employment at termination divided by the total number of youth who terminated excluding those who remained in school.

6. *Employability Enhancement Rate*—Total number of youth who attained one of the employability enhancements at termination, whether or not they also obtained a job, divided by the total number of youth who terminated.

• Youth Employability Enhancements include:

a. Attained (two or more) PIC-Recognized Youth Employment Competencies

b. Completed Major Level of Education Following Participation of At Least 90 days in JTPA Activity

c. Entered and Retained at least 90 Days in Non-Title II Training

d. Returned to and Retained in Full-Time School for at least one semester (Dropouts only)

e. Remained in School for At-Risk Youth for at least one school reporting period of at least one semester, attained a basic or job-specific skill competency, and made satisfactory progress

The following defines the title III performance standard:

1. *Entered Employment Rate*—Total number of individuals who entered employment at termination, excluding those who were recalled or retained by original employer after receipt of a layoff notice, divided by total terminations excluding those who were recalled or retained by original employer after receipt of a layoff notice.

[FR Doc. 90–269 Filed 1–4–90; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act, Annual Status Report for Title II–A

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed revisions to the Annual Status Report; request for comments and Paperwork Reduction Act notice.

SUMMARY: The Departemnt of Labor (Department) is requesting comments on proposed changes to the Job Training Partnership Act (JTPA or Act) Annual Status Report (JASR) for the JTPA title II–A program. The proposed revisions extend and update the reporting system in order to provide data for improved adjustments to the postprogram and revised youth standards, to more adequately identify more difficult-to-serve portions of the JTPA population, and to collect more detailed information on adult basic education and occupational skill attainments for use in setting a future measure.

DATE: Written coments are invited from interested parties. Comments must be submitted on or before January 25, 1990.

ADDRESS: Comments shall be addressed to the Assistant Secretary of Labor for Employment and Training, U.S. Department of Labor, Room N5310, 200 Constitution Avenue, NW., Washington, DC 20210; Attention: Steven Aaronson. The proposed revisions have been forwarded to the Office of Management and Budget (OMB) for review pursuant to the provisions of the Paperwork Reduction Act. Comments should also be sent to the OMB reviewer at: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, Washington, DC 20503; Attention: Scott Jacobs; Telephone: (202) 395–6880.

FOR FURTHER INFORMATION CONTACT: Steven Aaronson, Telephone: (202) 535–0687.

SUPPLEMENTARY INFORMATION: The Department is proposing changes in the JASR. The Department is also publishing the proposed revisions in the **Federal Register** in order to obtain broad

comment on the Department's intended reporting requirements for Program Year (PY) 1990 (July 1, 1990–June 30, 1991). Upon completion of the OMB review, the Departemnt will notify the JTPA system of any resulting changes or adjustments.

A. Authority and Purpose of the JTPA Annual Reporting Requirements

Reporting instructions are necessary to comply with JTPA's provisions regarding the Secretary of Labor's (Secretary's) responsibilities and authority for setting performance standards and for recordkeeping and reporting as indicated below.

• Section 106—*Performance Standards.* This section directs the Secretary to prescribe standards for adult and youth programs under Title II–A. To set performance standards, the Secretary must have data on performance. In addition, this section directs the Secretary to establish parameters within which Governors may vary standards for service delivery areas (SDAs) based on local economic factors, the characteristics of the population to be served and the types of services provided. The Departmental adjustment approach, that satisfies these parameter criteria, requires data collection on those factors that have a significant effect on performance and vary sufficiently across SDAs to warrant an adjustment to standards.

• Section 165—*Reports, Recordkeeping, and Investigations.* This section requires federal grant recipients to maintain records and report information regarding program performance as specified by the Secretary. This section also requires reporting of expenditures at a level adequate to ensure statutory compliance.

• Section 169—*Administrative Provisions.* The Secretary is directed at subsection (d)(1) to submit an annual report to the Congress summarizing the achievements of the program. Such a report will include data on program performance.

These proposed revisions are intended to extend and update the reporting system. The justification for having reporting at the SDA level has not changed since the initial establishment of the reporting requirements, namely:

• Data on program performance, participant characteristics and local economic conditions must be available at the SDA level to set standards.

• Federal reporting is the most cost effective method for collecting program performance and participant characteristics. In addition, such a system ensures the consistency of the data across SDAs.

• Without SDA-level data, objective and defensible local standards cannot be set, because the effects on performance of varying local conditions cannot be systematically predicted.

B. Reasons for Revisions

These revisions are being proposed for several reasons:

• Within the context of increased service to a less employable population, the JTPA Advisory Committee and legislative proposals emphasize the importance of long-term employability development to meet the needs of adults as well as youth. Thus far, there are no national data on adult employability enhancements, despite the growing evidence of the need to provide remediation for adults as well as youth. In anticipation of developing a future adult measure, skill attainments as well as educational gains and training advancement will now be collected for adults and welfare recipients similar to what is already reported for youth.

• Many JTPA youth programs are working with the public schools to prevent youth at-risk of dropping out from leaving school. Dropout prevention is not currently recognized within the performance management system, however, unless the individual achieves a major level of education. A new enhancement outcome that rewards programs for keeping in school a youth identified as being at risk of dropping out, will legitimize and promote these cooperative education/JTPA program efforts.

• Whether programs should be rewarded for simply placing youth in full-time academic or training activities without evidence of learning gains is an issue of continuing programmatic concern. Four of the employability enhancements are strengthened to include a minimum retention period of at least one semester or 90 days before credit will be given. For a program to receive credit for keeping at-risk youth in school, the attainment of a basic education or occupational skill competency and satisfactory academic progress will be required.

• In anticipation of tighter targeting on those with greater barriers to employment, additional data will be collected to identify more completely those participants that are among the hardest-to-serve. Information on those who lack a sufficient work history, are homeless, or who have multiple employment barriers will improve adjustments to performance standards to reflect differences in service levels to these groups.

• A major recommendation of the JTPA Advisory Committee is to make investments in quality training to better prepare JTPA participants for a changing, more complex workplace. Program outcomes differ widely depending on participant deficiencies and length of time spent in training to overcome them. Data that distinguishes between short-term, average and long-term training will assist Governors in setting reasonable expectations for assessing and rewarding postprogram performance.

C. Proposed Changes

The Department is proposing the following additions to the JTPA Annual Status Report:

Performance Outcomes:

• Remained in School.

A subset of employability enhancement terminations added to document those youth, at risk of dropping out, who are enrolled for at least one semester and who make satisfactory progress in school. The number will also be subtracted from total terminees in the calculation of the Youth Entered Employment Rate to exclude those participants for whom employment is not an appropriate outcome.

• Completed Major Level of Education
• Entered Non-Title II Training
• Returned to School

Each is a subset of employability enhancement terminations which were combined as part of the PY 1988 JASR revisions, but are currently collected and present in all Management Information Systems. Completed Major Level of Education and Entered Non-Title II Training will now be listed separately in order to collect the information for adults as well as for youth. Returned to school explicitly recognizes the value of serving dropouts in JTPA youth programs.

Barriers to Employment:

• Lacks significant work history (has not worked for the same employer for longer than 3 months in the 3 prior years)
• Homeless
• Multiple barriers to employment (at least 3 out of a list of ten barriers to employment must be present)

These three elements identify those harder-to-serve in the JTPA population. Research supports the proposition that serving participants with little or no work experience, who are homeless, or

with multiple barriers lowers outcomes relating to employment and earnings.

Terminee Characteristics:

- Veterans, total
- Vietnam Era

The 1986 amendments to JTPA require the Secretary of Labor to prescribe variations in performance standards to account for service to these groups.

Information on Receipt of Training:

- Less than 26 weeks of training
- 26 weeks or more of training
- Average weeks in training

These elements distinguish between short-term, average, and long-term training which will be useful in making adjustments to adult and youth standards to account for differences in local program design.

Section IV of the JASR-Adult Employability Skills/Youth Employment Competency Attainment Information:

- Skill attainments in basic education and occupational training will be collected for adults and welfare recipients similar to what is already being reported for youth. This information will enable the Department to explore possible future measures for adult participants as well as to make adjustments to current adult standards to account for differences in client needs.

The Department is proposing the following redefinitions:

- Returned to school (retained in school at least one State-approved reporting period—not less than one semester)
- Completed major level of education (following participation of at least 90 days in JTPA activity)
- Entered non-Title II training (retained at least 90 days in the new training program)

The minimum period of one semester of 90 days is intended to serve as a proxy for quality of service and skill acquisition.

The Department is proposing the following deletions:

- Completed program objective (14–15 year olds)
- Dislocated worker data

Proposed changes in definitions for youth employability enhancements offer more appropriate service strategies and outcomes for this segment of the youth population. Because of the amendments to Title III, dislocated worker data is being collected separately on the Worker Adjustment Program Report.

The method of data collection and reporting will not be changed as a result of these revisions. The data collected from these reports will (1) enable the Secretary to establish performance standards at the national level, (2) allow Governors to adjust standards for SDAs, (3) provide Governors with a basis for measuring performance against the standards, and (4) provide Governors with continued flexibility to use additional performance measures.

Most of the additional reporting items and redefinitions directly relate to the Department's focus on serving the hardest-to-serve by making quality training investments which underscore long-term employability development. The proposed performance outcome information would recognize dropout prevention for at-risk youth as an important program intervention. Breaking out employability enhancement categories will allow for the collection of new, detailed information on employability enhancement outcomes for adults. The employability enhancement definitions, through the specification of a minimum retention period, are being strengthened to ensure that a meaningful gain in skills has actually occurred. Additional information on training is being collected to determine the average length of time spent in training and the number of participants in short and long-term training. In addition, attainments in the area of basic education skills and occupational skills will be collected for all adults and welfare adults so that future measures and adjustments for adults can be developed. Since no such performance measure is being added for adults in PY 1990, the inclusion of the data items will allow local programs time to consider whether the development of a skill attainment program component is appropriate for adult program participants.

The proposed reporting additions on employment barriers help to identify those more difficult to serve. Without nationwide data, the Department is unable to document the extent to which JTPA is serving those most-in-need of employment and training assistance. More importantly, the optional adjustment model used by most States to set SDA performance standards cannot adequately account for the severity of client needs or the difficulty in providing service to severely disadvantaged participants. Without holding SDAs harmless for serving the most disadvantaged, there are strong incentives for programs to serve the most employable in order to achieve their standards.

D. Public Comment

In the development of these proposed revisions, meetings were held between May and November to obtain input and feedback from individuals from all sectors of the JTPA system. In all, over 100 State and local policy makers, administrators, technicians and service providers, and other interested individuals participated in the various discussions held on the proposed revisions. This request for comment is another important part of the process.

The Secretary especially requests comments on whether the data on terminees who are enrolled in dropout prevention programs and remain in school should be collected in the Federal data system and whether the elements of the definition of those remaining in school are appropriate and necessary.

E. Cost to the System

The changes included in this request are not expected to substantially increase the reporting burden for SDAs, since most of the information is either already being collected at the local level or involves self-reporting by the participants at program entry. It is estimated that a one-time cost will be involved in revising reporting formats and management information systems to delete elements relating to dislocated workers and to add the items discussed above. This cost has been prorated in annual burden hours.

An increased programmatic reporting burden of 701 hours has been submitted to OMB along with an increase of 1450 hours of additional recordkeeping burden, for a total increase of 2151 hours, or approximately one week per SDA and State per year.

F. OMB Submission

The document appended to this notice has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act as a revision to a currently approved information collection system.

Signed at Washington, DC, this 29th day of December, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

Appendix—JTPA Annual Status Report

JTPA Annual Status Report (JASR)

1. *Purpose.* The JTPA Annual Status Report (JASR) displays cumulative data on participation, termination, performance measures and the socio-economic characteristics of all terminees on an annual basis. The information will be used to determine levels of program service and performance measures. Selected information will be aggregated to provide quantitative

program accomplishments on a local, State, and national basis.

2. *General Instructions.* The Governor will submit for title II–A (Columns A–C) a separate JASR for each designated Service Delivery Area (SDA). (A Statewide summary of these SDA data need not be submitted.) Grantees may determine whether the reports are submitted on JASR forms or as a computer printout, with data, including signature and title, date signed and telephone number, arrayed as indicated on the JASR form. If revisions are made to the JASR data after the reporting deadline, revised copies of the JASR should be submitted to DOL as soon as possible according to the required reporting procedures.

Note: For JASR reporting purposes, title II–A shall refer to programs operated with funds authorized under section 202(a) of the Act or otherwise distributed by the Governor under section 202(b)(3) (six percent) of the Act—incentive grants for service to the hard-to-serve and programs exceeding performance standards. (Concentrated Employment Programs (CEPs) should report total title II–A program expenditures of 78 percent funds, special supplemental allocations, and 6 percent incentive grants.) Do not include data on (six percent) funds authorized under section 202(b)(3) for technical assistance. Participants and expenditures under title I, sections 123 (8 percent) and 124 (3 percent), and expenditures under title II, section 202(b)(4) (five percent) and any participants, if applicable, are likewise excluded from the JASR.

Note: Participant and expenditure information under title II–B, Summer Youth Employment and Training Program (SYETP) and title III dislocated worker programs are also excluded from the JASR.

SDAs should not terminate from title II–A youths who participate in the title II–B Summer Program unless they are not expected to return to title II–A for further employment, training and/or services.

If these youths receive concurrent employment, training and/or services under both titles II–A and II–B, they are to be considered participants in both titles for purposes of recording actual number of weeks participated, weeks in training, dollars expended, and other pertinent data.

If, however, these youths do not receive title II–A employment, training and/or services while participating in title II–B, this period is not to be included in the calculation of actual number of weeks participated in title II–A at Line 34, Column C but would be included in Average Weeks in Training at Line 49, Column C.

The reporting period begins on the starting date of each JTPA program year, as stated in section 161 of the Act. Reports are due in the national and regional offices no later than 45 days after the end of each program year. Two copies of the JASR are to be provided to: Employment and Training Administration, U.S. Department of Labor, ATTN: TSVR—Rm. S-5306, 200 Constitution Avenue, NW., Washington, DC 20210.

At the same time an additional copy of the JASR is to be provided to the appropriate Regional Administrator for Employment and Training in the DOL regional office that includes the State in which the JTPA recipient is located.

3. *Facsimile of Form.* See the following page.

4. *Instructions for Completing the JTPA Annual Status Report (JASR).*

a. State/SDA Name, Number and Address

Enter the name, ETA assigned SDA number and address of the designated SDA subrecipient, as appropriate (title II–A report).

b. Report Period

Enter in "From" the beginning date of the designated JTPA program year and enter in "To" the ending date of that program year.

c. Signature and Title (at bottom of the page)

The authorized official signs here and enters his/her title.

d. Date Signed

Enter the date the report was signed by the authorized official.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR Employment and Training Administration JTPA ANNUAL STATUS REPORT	a. STATE/SDA NAME AND ADDRESS	b. REPORT PERIOD FROM	TO

I. PARTICIPATION AND TERMINATION SUMMARY	Total Adults (A)	Adults (Welfare) (B)	Youth (C)
A. TOTAL PARTICIPANTS			
B. TOTAL TERMINATIONS			
1. Entered Unsubsidized Employment			
a. Also Attained Any Adult/Youth Employability Enhancement			
2. Adult/Youth Employability Enhancement Terminations			
a. Attained Adult Employability Skills/PIC-Recognized Youth Employment Competencies			
b. Returned to Full-time School	/////////////	////////////	
c. Remained in School	/////////////	////////////	
d. Completed Major Level of Education			
e. Entered Non-Title-II Training			
3. All Other Terminations			

	II. TERMINEES PERFORMANCE MEASURES INFORMATION			
1	Male			
2	Female			
3	14 - 15	/////////////	////////////	
4	16 - 17	/////////////	////////////	
5	18 - 21	/////////////	////////////	
6	22 - 29			////////////
7	30 - 54			////////////
8	55 and over			////////////
9	School Dropout			
10	Student			
11	High School Graduate or Equivalent (No Post-High School)			
12	Post-High School Attendee			
13	Single Head of Household With Dependent(s) Under Age 18			
14	White (Not Hispanic)			
15	Black (Not Hispanic)			
16	Hispanic			
17	American Indian or Alaskan Native			
18	Asian or Pacific Islander			

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c. SIGNATURE AND TITLE	d. DATE SIGNED	e. TELE. NO.

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a. STATE/SDA NAME AND ADDRESS	REPORT PERIOD FROM	TO

	II. TERMINEES PERFORMANCE MEASURES INFORMATION - Continued	Total Adults (A)	Adults (Welfare) (B)	Youth (C)
19	Limited English Language Proficiency			
20	Handicapped			
21	Offender			
22	Reading Skills Below 7th Grade Level			
23	Long-Term AFDC Recipient	/////////////		
24	Lacks Significant Work History			
25	Homeless			
26	Multiple Barriers to Employment			
27	Unemployment Compensation Claimant			
28	Unemployed: 15 or More Weeks of Prior 26 Weeks			
29	Not in Labor Force			
30	Welfare Grant Type: AFDC	/////////////		
31	GA/RCA	/////////////		
32	Veteran (Total)		////////////	
33	Vietnam Era		////////////	////////////
34	Average Weeks Participated			
35	Average Hourly Wage at Termination			
36	Total Program Costs (Federal Funds)		////////////	
37	Total Available Federal Funds		////////////	////////////
	III. FOLLOW-UP INFORMATION			
38	Employment Rate (At Follow-up)			////////////
39	Average Weekly Earnings of Employed (At Follow-up)			////////////
40	Average Number of Weeks Worked in Follow-up Period			////////////
41	Sample Size			////////////
42	Response Rate			////////////
	IV. ADULT EMPLOYABILITY SKILL/YOUTH EMPLOYMENT COMPETENCY ATTAINMENT INFORMATION			
43	Attained Any Skill/Competency Area			
44	Pre-Employment/Work Maturity Skills	/////////////	////////////	
45	Basic Education Skills			
46	Occupational/Job Specific Skills			
47	Received Less than 26 Weeks of Training			
48	Received 26 or More Weeks of Training			
49	Average Weeks in Training			

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REMARKS:

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BILLING CODE 4510-30-C

e. Telephone Number

Enter the area code and telephone number of the authorized official.

5. *General Information.* For purposes of the JASR, the Total Adults and Adults (Welfare) columns will include terminees age 22 years and older. Thus, the column breakouts are based strictly on age rather than on program strategy. The youth column will include terminees who were age 14–21 at the time of eligibility determination.

Unless otherwise indicated, data reported on characteristics of terminees should be based on information collected at the time of eligibility determination.

Characteristics Information Obtained on an Individual at the Time of Eligibility Determination for the Recipient's JTPA Program Should Not Be Updated When the Individual Terminates From the JTPA Program.

Column Headings

Column A Total Adults

This column will contain an entry for each appropriate item for all adult participants in title II–A only.

Column B Adults (Welfare)

This column will contain an entry for each appropriate item for adult participants in title II–A who were listed on the welfare grant and were receiving cash payments under AFDC (SSA title IV), General Assistance (State or local government), or the Refugee Assistance Act of 1980 (Pub. L. 96–212) at the time of JTPA eligibility determination. For reporting and performance standards purposes, exclude those individuals who receive only SSI (SSA title XVI) from entries in Column B.

Note: Column B is a sub-breakout of Column A; therefore, Column B should be less than or equal to Column A for each line entry.

Column C Youth

This column will contain an entry for each appropriate item for all participants, aged 14–21, in title II–A only.

Note: Columns A, B, and C apply to title II–A only. All information regarding a given participant must be entered in the same column, e.g., Column C for a youth.

The sum of the entries (all SDAs in a State) in Columns A and C, Item I.A., Total Participants, of the JASR should equal the entry in Column A, Item III.A.1., SDA Participants, of the JSSR, for the same recipient, that includes the final quarter of the same program year.

The sum of the entries (all SDAs in a State) in Columns A and C, Item I.B., Total Terminations, of the JASR should equal the entry in Column A, Item III.B.1., SDA Terminations, of the JSSR, for the same recipient, that includes the final quarter of the same program year.

Section I—Participation and Termination Summary

Section I displays the program's accomplishments in terms of the total cumulative number of participants in the program and the number and types of terminations from the program, as of the end of the reporting period.

Entries for Items I.A. and I.B. are cumulative from the beginning of the program year through the end of the reporting period.

Item I.A. Total Participants

Enter by column the total number of participants who are or were receiving employment, training or services (except post-termination services) funded under that program title through the end of the reporting period, including both those on board at the beginning of the designated program year and those who have entered during the program year. If individuals receive concurrent employment, training and/or services under more than one title, they are to be considered participants in both titles for purposes of recording actual number of weeks participated, dollars expended, and other pertinent data.

"Participant" means any individual who has: (1) Been determined eligible for participation upon intake; and (2) started receiving employment, training, or services (except post-termination services) funded under the Act, following intake. Individuals who receive only outreach and/or intake and initial assessment services or postprogram follow-up are excluded.

Participants who have transferred from one title to another, or between programs of the same title, should be recorded as terminations from the title or program of initial participation and included as participants in the title or program into which they have transferred, unless they are to be considered concurrent participants in both titles or programs.

Item I.B. Total Terminations

Enter by column the total number of participants terminated after receiving employment, training, or services (except post-termination services) funded under that program title, for any reason, from the beginning of the program year through the end of the reporting period. This item is the sum of Items I.B.1. through I.B.3.

"Termination" means the separation of a participant from a given title of the Act who is no longer receiving employment, training, or services (except post-termination services) funded under that title.

Note: Individuals may continue to be considered as participants for a single period of 90 days after last receipt of employment and/or training funded under a given title. During the 90-day period, individuals may or may not have received services. For purposes of calculating average weeks participated, this period between "last receipt of employment and/or training funded under a given title" and actual date of termination is defined as "inactive status" and is not to be included in Line 34.

Item I.B.1. Entered Unsubsidized Employment

Enter by column the total number of participants who, at termination, entered full- or part-time unsubsidized employment through the end of the reporting period. Unsubsidized employment means employment not financed from funds provided under the Act and includes, for JTPA reporting purposes, entry into the Armed Forces, entry into employment in a registered apprenticeship program, and terminees who became self-employed.

Item I.B.1.a. Also Attained Any Adult/Youth Employability Enhancement

Enter by column the total number of adults/youth who (1) entered unsubsidized employment, Item I.B.1., and (2) also attained any of the three adult employability enhancements or any one of the five youth employability enhancements (as enumerated in the instructions for Item I.B.2. below and defined in Appendix C). This item is a sub-breakout of Item I.B.1.

Item I.B.2. Adults/Youth Employability Enhancement Terminations

Enter by column the total number of adults/youth who were terminated under one of the Adults/Youth Employability Enhancements through the end of the report period.

"Adult Employability Enhancement" means an outcome for adults, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Attained Adult Employability Skills (one or more), (2) Completed Major Level of Education and (3) Entered Non-Title II Training.

"Youth Employability Enhancement" means an outcome for youth, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Attained PIC-Recognized Youth Employment Competencies (two or more); (2) Returned to Full-Time School; (3) Remained in School; (4) Completed Major Level of Education; or (5) Entered Non-Title II Training:

Note: For reporting purposes, an adult/youth shall not be counted in Item I.B.2. if s/he entered unsubsidized employment, and shall be counted in only one of the three/five categories enumerated above, even though more than one outcome may have been achieved.

Item I.B.2.a. Attained Adult Employability Skills/PIC-Recognized Youth Employment Competencies

Enter in Columns A and B the total number of adults who, at time of termination, have demonstrated proficiency as defined by the local area in one or more of the following two skill areas: basic education skills and occupational skills in which the terminee was deficient at enrollment.

Enter in Column C the total number of youth who, at termination, have demonstrated proficiency as defined by the PIC in two or more of the following three skill areas in which the terminee was deficient at enrollment: pre-employment/work maturity,

basic education, or job-specific skills. Competency gains must be achieved through program participation and be tracked through sufficiently developed systems that must include: quantifiable learning objectives, related curricula/training modules, pre- and postassessment, employability planning, documentation, and certification. This item is a sub-breakout of Item I.B.2. The entry in each column for Item I.B.2.a. must be equal to or smaller than the entry in that column for Line 43.

Note: Terminees who have attained a competency in basic education skills and/or job specific skills through training funded under 8% programs and/or cooperative agreements may be counted in Item I.B.2.a. provided such training was for completion of a training objective initially determined while in a youth employment competency system operated under 78% funds.

Youth employment competency system requirements remain unchanged from PY 89 and Appendix B defines the minimal structural and procedural elements of a sufficiently developed youth employment competency system as well as the minimal requirements for ensuring consistency in the reporting of competency attainment in the pre-employment/work maturity skill area.

There are currently no minimum structural and procedural elements required for an adult employability skill attainment. The youth competency system may also be used for adults or local areas may devise alternative adult employability skill attainment system requirements.

Item I.B.2.b. Returned to Full-Time School

Enter the total number of youth who, (1) at termination, returned to full-time secondary school (e.g., junior high school, middle school and high school), including alternative school, if, at the time of intake the participant was not attending school, exclusive of summer, and had not obtained a high school diploma or equivalent and (2) at termination, had been retained in school for at least one complete State-approved reporting period (but not less than one semester), e.g., semester, year, etc. This item is a sub-breakout of Item I.B.2.

Item I.B.2.c. Remained in School

Enter the total number of youth who, at termination, had been retained in full-time secondary school, including alternative school, for at least one complete State-approved reporting period (but not less than one semester), e.g., semester, year, etc. A youth may be recorded on this line only if s/he was attending school at the time of intake, had not received a high school diploma or equivalent, and was conducted "at risk" of dropping out, as defined by the Governor in consultation with the State Education Agency. This item is a sub-breakout of Item I.B.2.

Note: To obtain credit for remained in school, retention must result from JTPA activities and the youth must (1) attain a PIC-approved Youth Employability Competency in Basic Skills or Job Specific Skills and (2) be making satisfactory progress as defined by JOBS and the Federal Student Financial Aid Handbook.

Item I.B.2.d. Completed Major Level of Education

Enter by column the total number of adults/youth who, at termination, had completed, during enrollment, a level of educational achievement which had not been reached at entry. Levels of educational achievement are secondary and postsecondary.

Note: To obtain credit, completion of a major level of education must result primarily from participation of at least 90 days in JTPA activity. This item is a sub-breakout of Item I.B.2.

Item I.B.2.e. Entered Non-Title II Training

Enter by column the total number of adults/ youths who, at termination, had entered and had been retained in, for at least 90 days, an occupational-skills employment/ training program, not funded under title II of the JTPA, which builds upon and does not duplicate training received under Title II. This item is a sub-breakout of Item I.B.2.

Note: For Columns A and B, the sum of Items I.B.2.a. plus I.B.2.d. plus Item I.B.2.e. must equal Item I.B.2. For Column C, Items I.B.2.a. through I.B.2.e. must equal Item I.B.2. For Columns A through C, Item I.B.1. plus Item I.B.2. plus Item I.B.3. must equal Item I.B.

Item I.B.3. All Other Terminations

Enter by column the total number of participants who were terminated for reasons other than those in Items I.B.1. and I.B.2., successful or otherwise, through the end of the reporting period. See notes at Item I.B.

Section II—Terminee Performance Measures Information

Section II displays performance measures/ parameters information. As indicated previously, data reported on characteristics of terminees should be based on information collected at time of eligibility determination unless otherwise indicated.

Governors may develop any participant record which meets the requirements of Section 629.35(c) and (d) of the JTPA regulations. The DOL/ETA Technical Assistance Guide: The JTPA Participant Record, dated May 1983, may be used as a reference.

Line Item Definitions and Instructions

Sex

Line 1 Male
Line 2 Female

Distribute the terminees by column according to Sex. The sum of Lines 1 and 2 in each column should equal Item I.B. in that column.

Age

Line 3 14–15
Line 4 16–17
Line 5 18–21
Line 6 22–29
Line 7 30–54
Line 8 55 and over

Distribute the terminees by column according to Age. The sum of Lines 3 through 8 in each column should equal Item I.B. in that column.

Education Status

Line 9 School Dropout
Line 10 Student
Line 11 High School Graduate or Equivalent (No Post-High School)
Line 12 Post-High School Attendee

Distribute the terminees by column according to Education Status. The sum of Lines 9 through 12 in each column should equal Item I.B. in that column.

Family Status

Line 13 Single Head of Household with Dependent(s) Under Age 18.

Enter the total number of terminees by column for whom the above Family Status classification applies.

Race/Ethnic Group

Line 14 White (Not Hispanic)
Line 15 Black (Not Hispanic)
Line 16 Hispanic
Line 17 American Indian or Alaskan Native
Line 18 Asian or Pacific Islander

Distribute the terminees by column according to the Race/Ethnic Groups listed above. For purposes of this report, Hawaiian Natives are to be recorded as "Asian or Pacific Islander". The sum of Lines 14 through 18 in each column should equal Item I.B. in that column.

Other Barriers to Employment

Line 19 Limited English Language Proficiency
Line 20 Handicapped
Line 21 Offender
Line 22 Reading Skills Below 7th Grade Level
Line 23 Long-Term AFDC Recipient
Line 24 Lacks Significant Work History
Line 25 Homeless
Line 26 Multiple Barriers to Employment

Enter the total number of terminees by column for whom each of the above Other Barriers to Employment apply.

U.C. Status

Line 27 Unemployment Compensation Claimant

Enter the total number of terminees by column for whom the above Unemployment Compensation Status classification applies.

Labor Force Status

Line 28 Unemployed: 15 or More Weeks of Prior 26 Weeks
Line 29 Not in Labor Force

Enter the total number of terminees by column for whom each of the above Labor Force Status classifications applies.

Welfare Grant Information

Line 30 Welfare Grant Type: AFDC
Line 31 Welfare Grant Type: GA/RCA

Distribute by column the total number of adult and youth welfare terminees who, at eligibility determination, were listed on the welfare grant and were receiving cash payments under AFDC (SSA title IV), GA, General Assistance (State or local government) or RCA (Refugee Cash Assistance) under the Refugee Assistance Act of 1980 (Pub. L. 96–212). If a welfare recipient terminee received AFDC cash payments, include such terminee on Line 30. A welfare recipient terminee who received cash payments under GA and/or RCA, but

not AFDC, should be included on Line 31. The sum of Lines 30 and 31 in Column B, Adults (Welfare), should equal Item I.B. in that column. The sum of Lines 30 and 31 in Column C, Youth, should be the same as or less than Item I.B. in that column.

Veteran Status

Line 32 Veteran (Total)
Line 33 Vietnam Era

Enter the total number of terminees for whom each of the above Veteran classifications apply, as defined in section 4 (26)(A)(B) and (D) of the Act. Line 33 is a sub-breakout for a specific group included in Line 32.

Other Program Information

Line 34 Average Weeks Participated

Enter by column the average number of weeks of participation in the program for all terminees. Weeks of participation include the period from the date an individual becomes a participant in a given title through the date of a participant's last receipt of employment and/or training funded under that title. Exclude the single period of up to 90 days during which an individual may remain in an inactive status prior to termination. Time in inactive status for all terminees should not be counted toward the actual number of weeks participated. Inactive status is defined as that period between "last receipt of employment and/or training funded under a given title" and actual date of termination. See note at Item I.B.

To calculate this entry: Count the number of days participated for each terminee, including weekends, from the start date of his/her participation in the title until his/her last receipt of employment and/or training under that title. For those who receive services only, use date of last receipt of such services. Divide this result by 7. This will give the number of weeks participated for that terminee. Sum all the terminees' weeks of participation and divide the result by the number of terminees, as entered (by column) in Item I.B. This entry should be reported to the nearest whole week.

Line 35 Average Hourly Wage at Termination

Enter by column the average hourly wage at termination for the total number of terminees in Item I.B.1.

To calculate this entry: Sum the hourly wage at termination for all the terminees shown in Item I.B.1. Divide the result by the number of terminees shown in Item I.B.1.

Hourly wage includes any bonuses, tips, gratuities and commissions earned.

Line 36 Total Program Costs (Federal Funds)

Enter the total accrued expenditures, through the end of the reporting period, of the funds allocated to SDAs under section 202 (a) of the Act or otherwise distributed by the Governor to SDAs under section 202(b)(3)—incentive grants for services to the hard-to-serve and programs exceeding performance standards—for title II-A programs in Columns A and C (includes costs of services to participants aged 14–21), as ppropriate, for *all* participants served. Exclude expenditures of funds authorized under section 202(b)(3) for technical assistance. Exclude expenditures under title I, sections 123 (8%) and 124 (3%) and title II section 202(b)(4) (5%).

Note: Entries will be made to the nearest dollar. Negative entries are not acceptable. The JASR program cost data will be compiled on an accrual basis. If the recipient's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

The sum of the entries in Columns A and C, Line 36, Total Program Costs, of the JASR (i.e., total for the State's SDAs under Title II-A) should equal the entry in Column A, Item I.A.1., SDA Total Program Expenditures, of the JSSR, and the sum of the entries (all SDAs in a State) in Column C, Line 36 of the JASR should equal the entry in Column A, Item II. of the JSSR, for the same recipient, that includes the final quarter of the same program year.

Line 37 Total Available Federal Funds

Enter the total Federal funds available for the title II-A program described on this report including (1) unexpended funds carried over from previous program years, (2) funds allocated or awarded for this program year, and (3) any reallocation that increased or decreased the amount of funds available for expenditure through the end of this reporting period. Enter all title II-A funds (Adults and Youth) in Column A. Title II-A funds include those allocated to the SDA by the Governor under Section 202(a) of the Act, as well as incentive grants for services to the hard-to-serve and for programs exceeding performance standards under section 202(b)(3). Exclude funds authorized under section 202(b)(3) (6%) for technical assistance to SDAs and funds received for activities under sections 123 (8%) and 124 (3%) and section 202(b)(4) (5%).

Section III—Follow-Up Information

Section III displays information based on follow-up data which must be collected through participant contact to determine an individual's labor force status and earnings, if any, during the 13th full calendar week after termination and the number of weeks s/he was employed during the 13-week period. Follow-up data should be collected from participants whose 13th full calendar week after termination ends during the program year (the follow-up group). Thus, follow-up will be conducted for individuals who terminate during the first three quarters of the program year and the last quarter of the previous program year.

Follow-up data will be collected for the following terminees: title II-A adults and adult welfare recipients (Columns A and B). No follow-up information is required for Title II-A youth (Column C).

The procedures used to collect the follow-up data are at the discretion of the Governors. However, in order to ensure consistency of data collection and to guarantee the quality of the follow-up information, follow-up procedures must satisfy certain criteria. (See the Follow-up Guidelines included in these JASR instructions, Appendix A.)

Note: Every precaution must be taken to prevent a "response bias" which could arise because it may be easier to contact participants who were employed at termination than those who were not employed at termination and because those who entered employment at termination are more likely to be employed at follow-up. Special procedures have been developed by which SDAs and States can monitor response bias. If your response rates for those who were and were not employed at termination differ by more than 5 percentage points, the follow-up entries for the JASR must be calculated using the "Worksheet for Adjusting Follow-up Performance Measures" in the Follow-up Technical Assistance Guide. If the response rates differ by 5 percentage points or less, the following instructions for completing Lines 38–40 may be used.

Line 38 Employment Rate (At Follow-up)

Enter by column the employment rate at follow-up.

Calculate the employment rate by dividing the total number of respondents who were employed (full-time or part-time) during the 13th full calendar week after termination by the total number of respondents (i.e., terminees who completed follow-up interviews). Then multiply the result by 100. This entry should be reported to the nearest one decimal (00.0).

Line 39 Average Weekly Earnings of Employed (At Follow-up)

Enter by column the average weekly earnings of those employed (full-time or part-time) at follow-up.

Calculate the (before-tax) average weekly earnings by multiplying the hourly wage by the number of reported hours for each respondent employed at follow-up; and, if appropriate, add tips, overtime, bonuses, etc. Divide the sum of weekly earnings for all respondents employed during the 13th full calendar week after termination by the number of respondents employed at the time of follow-up. Respondents not employed at follow-up are not included in this average. This entry should be reported to the nearest whole dollar.

Weekly earnings include any wages, bonuses, tips, gratuities, commissions and overtime pay earned.

Line 40 Average Number of Weeks Worked in Follow-up Period

Enter by column the average number of weeks worked.

To calculate the average number of weeks worked (full-time or part-time), divide the sum of the number of weeks worked during the 13 full calendar weeks after termination for all respondents who worked, by the total number of all respondents, whether or not they worked any time during this 13-week follow-up period. This entry should be reported to the nearest one decimal (00.0).

Line 41 Sample Size

Enter by column the size of the actual sample selected to be contacted for follow-up. (For Title II-A, i.e., total adults and adult welfare recipients, SDA samples must be selected.)

Note: If oversampling was used, the sample size should include all those selected, not just the required minimum sample size. Those

deceased or severely incapacitated to the point of being unable to respond at follow-up may be excluded from the sample size.

Line 42 Response Rate

Enter by column the overall response rate, i.e., the percentage of complete surveys obtained.

To calculate the overall response rate, divide the number of terminees with complete follow-up information by the total number of terminees included in the follow-up sample (Line 41) and multiply by 100. This entry should be reported to the nearest whole percent.

Note: Complete follow-up information consists of substantive answers to the required follow-up questions and may not include "don't know", "no answer" or "don't remember".

Section IV—Adult Employability Skill/Youth Employment Competency Attainment Information

Section IV displays information relevant to adult employability skill attainment as defined by the local area and youth employment competency attainment as defined by the PIC. Regardless of termination type, the following data represent the total cumulative number of individuals that attained an adult employability skill/youth employment competency in any of the three skill areas and the numbers of individuals who attained a skill/competency in (1) pre-employment/work maturity, (2) basic education and/or (3) occupational/job specific skills.

Note: Terminees who have attained a skill/competency in basic education skills and/or occupational/job specific skills through training funded under 8% programs and/or cooperative agreements may be counted in section IV provided such training was for completion of a training objective initially determined while in an adult employability skill/youth employment competency system operated under 78% funds.

Youth employment competency system requirements remain unchanged from PY 89 and Appendix B defines the minimal structural and procedural elements of a sufficiently developed youth employment competency system as well as the minimal requirements for ensuring consistency in the reporting of competency attainment in the pre-employment/work maturity skill area.

There are currently no minimum structural and procedural elements required for an adult employability skill attainment. The youth competency system may also be used for adults or local areas may devise alternative adult employability skill attainment system requirements.

Line 43 Attained Any Skill/Competency Area

Enter by column the total unduplicated number of adults/youth terminees who were enrolled in an adult employability skill/youth employment competency component and who attained a skill/competency in at least one skill area.

Note: Lines 44–46 are not sub-breakouts of Line 43 because one individual may attain several skills/competencies and may be recorded on more than one of Lines 44–46. That individual may be recorded only once on Line 43, thus, the sum of the entries in each column for Lines 44–46 must be equal to or greater than the entry in that column for Line 43.

Line 44 Pre-Employment/Work Maturity Skills

Enter by column the number of youth terminees who attained a skill/competency in the pre-employment/work maturity skill area.

Line 45 Basic Education Skills

Enter by column the number of adult/youth terminees who attained a skill/competency in the basic education skill area.

Line 46 Occupational/Job Specific Skills

Enter by column the number of adult/youth terminees who attained a skill/competency in the occupational/job specific skill area.

Note: For youth only, an entry of "0" on any of Lines 44–46 may indicate that the PIC has determined that a specific skill area is not necessary to become employment competent in their local labor market.

Line 47 Received Less than 26 Weeks of Training

Line 48 Received 26 or More Weeks of Training

Enter the total number of adult/youth terminees, regardless of type of termination, who received any employment/training activity. Lines 47 and 48 should be used to distribute adult/youth terminees who received any training activity by actual length of stay in all training activities, whether or not such training was completed.

Note: Terminees who received no training are excluded from Lines 47 and 48. See Appendix C for definition of Training activity.

Line 49 Average Weeks in Training

Enter by column the average number of weeks in training during program participation for all terminees.

To calculate this entry: Count the number of days in any training activity for each terminee, including weekends, from the start date of his/her participation in that training until his/her last receipt of that training. Repeat for any additional training activity. Divide this result by 7. This will give the number of weeks in training for that terminee. Sum all the terminees' weeks of training and divide the result by the number of terminees, as entered (by column) in Item I.B. This entry should be reported to the nearest whole week.

Note: Terminees who have received any training activity funded under a cooperative agreement with: (1) Other JTPA monies (i.e. 3%, 8%, Title III etc.) or (2) other than JTPA funds may be counted in Lines 47–49, provided such training was for the completion of the initially determined training objective.

Appendix A

Follow-up Guidelines

To ensure consistent data collection and as accurate information as possible, procedures used to obtain follow-up information must satisfy the following criteria:

• Participant contact must be conducted by telephone or in person. Mail questionnaires may be used in those cases where an individual does not have a telephone or cannot be reached.

• Participant contact must occur as soon as possible after the 13th full calendar week after termination but no later than the 17th calendar week after termination.

• Data reported are to reflect the individual's labor force status and earnings during the 13th full calendar week after termination and the number of weeks s/he was employed throughout the 13-week period after termination.

• Interview questions developed by DOL (see following Exhibit) must be used to determine the follow-up information reported on the JASR. Respondents must be told that responding is voluntary and that information provided by them will be kept confidential. Other questions may be included in the interview. Attitudinal questions may precede DOL questions, but questions related to employment and earnings must follow.

• Attempts must be made to contact all individuals unless terminee populations are large enough to use sampling.

• As many attempts as are necessary, to obtain the required response rate, should be made to contact enough individuals in the follow-up group.

• For each SDA (title II–A) report (JASR), minimum response rates of 70% are required for each of the following four groups: among adults, those who entered employment at termination and those who did not enter employment at termination; and among welfare recipients, those who entered employment at termination and those who did not enter employment at termination. The response rate is calculated as the number of terminees with complete follow-up information divided by the total number of terminees included in the group eligible for follow-up.

Exhibit

Minimum Postprogram Data Collection Questions

A. I want to ask you about the week starting on Sunday, ________, and ending on Saturday, ________, which was (last week/two/three/four weeks ago).

1. Did you do any work for pay during that week?
   ______ Yes [Go to 2]
   ______ No [Go to C]
2. How many hours did you work in that week?
   ______ Hours
3. How much did you get paid per hour in that week?
   ______ Dollars per hour
4. How much extra, if any, did you earn in that week from tips, overtime, bonuses, commissions, or any work you did on the side, before deductions?
   ______ Dollars

B. Now I want to ask you about the entire 13 weeks from Sunday, ________, to Saturday, ________.

5. Including the week we just talked about, how many weeks did you work at all for pay during the 13-week period?
   ______ Weeks [Go to end]

Alternative Questions

C. If answered "NO" to Question 1: Now I want to ask you about the entire 13 weeks from Sunday, ________, to Saturday, ________.

6. Did you do any work for pay during that 13-week period?
 ______ Yes [Go to 7]
 ______ No [Go to end]
7. How many weeks did you do any work at all for pay during that 13-week period?

Sampling Procedures

Where sampling is used to obtain participant contact information, it is necessary to have a system which ensures consistent random selection of sample participants from all terminees in the group requiring follow-up.

• No participant in the follow-up group may be arbitrarily excluded from the sample.

• Procedures used to select the sample must conform to generally accepted statistical practice, e.g., a table of random numbers or other random selection techniques must be used.

• The sample selected for contact must meet minimum sample size requirements indicated in Table 1.

The use of sampling will depend on whether the terminee populations are large enough to provide estimates which meet minimum statistical standards. If the number of terminees for whom follow-up is required is less than 138, sampling cannot be used. In such cases attempts must be made to contact all the appropriate terminees.

Minimum Sample Sizes for Follow-up

To determine the minimum number of terminees to be included in the follow-up sample, refer to Table 1 in the following instructions. Find the row in the left-hand column that contains the planned number of terminees for each of the groups requiring follow-up: adults, welfare recipients and dislocated workers. The required minimum sample size is given in the middle column of that row. The last column gives sampling percentages that will assure that the minimum sample is obtained.

Note: The welfare recipients in the adult sample may be used as part of the welfare sample. In this case, an additional number of welfare recipients must be randomly selected to provide a supplemental sample large enough to meet the same accuracy requirements as other groups requiring follow-up. To determine the minimum size of this supplemental welfare sample, find the row in the left-hand column of Table 1 that contains the planned total number of welfare recipients requiring follow-up. From the corresponding entry in the middle column, subtract the number of welfare recipients included in the adult sample. The remainder represents the minumum size of the supplemental sample of welfare recipients required for contact.

TABLE 1—MINIMUM SAMPLE SIZES FOR FOLLOW-UP

Number of terminees in follow-up population	Minimum sample size	Sampling percentages
1–137	All	100
138–149	137	94
150–159	143	92
160–169	149	89
170–179	154	87
180–189	159	85
190–199	164	84
200–224	175	82
225–249	185	78
250–274	194	74
275–299	202	71
300–349	217	67
350–399	229	62
400–449	240	57
450–499	250	53
500–599	265	50
600–749	282	44
750–999	302	38
1,000–1,499	325	30
1,500–1,999	338	22
2,000–2,999	352	17
3,000–4,000	364	12
5,000 or more	383	7.3

Correcting for Differences in Response Rates

Different response rates for those terminees who entered employment at termination and those who did not are expected to bias the performance estimates because those who entered employment at termination are more likely to be employed at follow-up. It is assumed that those who were employed at termination are easier to locate than those who were unemployed because the interviewer has more contact sources (e.g., name of employer). The resulting response bias can artificially inflate performance results at follow-up.

To account for this problem, separate response rates should be calculated for those who were employed at termination and for those who were not. These separate response rates should be calculated for two groups: all II–A adult terminees and welfare recipients terminees.

For each group, if the response rates of those employed at termination and those not employed differ by more than 5 percentage points, then the "Worksheet for Adjusting Follow-up Performance Measures" in the Follow-up Technical Assistance Guide must be used to correct the follow-up measures for that group.

Appendix B

PIC-Recognized Youth Employment Competencies

A. General Description of Youth Employment Competency Skill Areas

• *Pre-employment skills* include world of work awareness, labor market knowledge, occupational information, values clarification and personal understanding, career planning and decision making, and job search techniques (resumes, interviews, applications, and follow-up letters). They also encompass survival/daily living skills such as using the phone, telling time, shopping, renting an apartment, opening a bank account, and using public transportation; and

• *Work maturity skills* include positive work habits, attitudes, and behavior such as punctuality, regular attendance, presenting a neat appearance, getting along and working well with others, exhibiting good conduct, following instructions and completing tasks, accepting constructive criticism from supervisors and co-workers, showing initiative and reliability, and assuming the responsibilities involved in maintaining a job. This category also entails developing motivation and adaptability, obtaining effective coping and problem-solving skills, and acquiring an improved self image.

• *Basic education skills* include reading comprehension, math computation, writing, speaking, listening, problem solving, reasoning, and the capacity to use these skills in the workplace.

• *Job-specific skills*—Primary job-specific skills encompass the proficiency to perform actual tasks and technical functions required by certain occupational fields at entry, intermediate or advanced levels. Secondary job-specific skills entail familiarity with and use of set-up procedures, safety measures, work-related terminology, recordkeeping and paperwork formats, tools, equipment and materials, and breakdown and clean-up routines.

B. Sufficiently Developed Systems for Youth Employment Competencies

A sufficiently developed youth employment competency system must include the following structural and procedural elements:

1. Quantifiable Learning Objectives

• PIC-recognized competency statements that are quantifiable, employment-related, measurable, verifiable learning objectives that specify the proficiency to be achieved as a result of program participation.

Employment competencies/quantifiable learning objectives approved by the PIC as relevant to the SDA must include a description of the skills/knowledge/attitudes/behavior to be taught, the levels of achievement to be attained, and the means of measurement to be used to demonstrate competency accomplishment. The level of achievement selected should enhance the youth's employability and opportunities for postprogram employment.

2. Related Curricula, Training Modules, and Approaches

• Focused curricula, training modules, or behavior modification approaches which teach the employment competencies in which youth are found to be deficient.

Such related activities, components, or courses must encompass participant orientation, work-site supervisor/instructor/community volunteer training, and staff development endeavors as appropriate. They also must include, as appropriate, relevant agreements, manuals, implementation packages, instructions, and guidelines. A minimum duration of training must be specified which allows sufficient time for a youth to achieve those skills necessary to attain his/her learning objectives.

3. Pre-Assessment

• Assessment of participant employment competency needs at the start of the program to determine if youth require assistance and are capable of benefitting from available services.

A minimum level of need must be established before a participant is eligible to be tracked as a potential "attained PIC-recognized youth employment competency" outcome. All assessment techniques must be objective, unbiased and conform to widely accepted measurement criteria. Measurement methods used must contain clearly defined criteria, be field tested for utility, consistency, and accuracy, and provide for the training/preparation of all raters/scorers.

4. Post-Assessment (Evaluation)

• Evaluation of participant achievement at the end of the program to determine if competency-based learning gains took place during project enrollment.

Intermediate checking to track progress is encouraged. All evaluation techniques must be objective, unbiased and conform to widely accepted evaluation criteria. Measurement methods used must contain clearly defined criteria, be field tested for utility, consistency, and accuracy, and provide for the training/preparation of all raters/scorers.

5. Employability Development Planning

• Use of assessment results in assigning a youth to appropriate learning activities/sites in the proper sequence to promote participant growth and development, remedy identified deficiencies, and build upon strengths.

6. Documentation

• Maintenance of participant records and necessary reporting of competency-based outcomes to document intra-program learning gains achieved by youth.

7. Certification

• Proof of youth employment competency attainment in the form of a certificate for participants who achieve predetermined levels of proficiency to use as evidence of this accomplishment and to assist them in entering the labor market.

C. Guidelines for Ensuring Consistency in the Reporting of Pre-Employment/Work Maturity Skill Competencies

Individuals should demonstrate proficiency in each of the following 11 core competencies. In order for an attainment to be reported in the area of pre-employment/work maturity, at least one PIC-certified competency statement must be developed/quantified in each of the following 11 core competencies—provided that at least 5 of these learning objectives were achieved during program intervention:

1. Making Career Decisions
2. Using Labor Market Information
3. Preparing Resumes
4. Filling Out Applications
5. Interviewing
6. Being Consistently Punctual
7. Maintaining Regular Attendance
8. Demonstrating Positive Attitudes/Behavior
9. Presenting Appropriate Appearance
10. Exhibiting Good Interpersonal Relations
11. Completing Tasks Effectively

Appendix C

Definitions of Terms Necessary for Completion of Reports

Employment/Training Services

Assessment—services are designed to initially determine each participant's employability, aptitudes, abilities and interests, through interviews, testing and counseling to achieve the applicant's employment related goals.

Follow-Up—is the collection of information on a terminee's employment situation at a specified period after termination from the program.

Intake—includes the screening of an applicant for eligibility and: (1) A determination of whether the program can benefit the individual; (2) an identification of the employment and training activities and services which would be appropriate for that individual; (3) a determination of the availability of an appropriate employment and training activity; (4) a decision on selection for participation and (5) the dissemination of information on the program.

Outreach—activity involves the collection, publication and dissemination of information on program services directed toward economically disadvantaged and other individuals eligible to receive JTPA training and support services.

Adult Employability Skills Training

Basic Education Skills—Includes remedial reading, writing, mathematics and/or English for non-English speakers.

Occupational Skills Training—Includes: (1) Vocational education which is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs, and (2) on-the-job training which is training in the public or private sector given to an individual, who has been hired first by the employer, while s/he is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

Adult Employability Enhancement Termination

An outcome for adults, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for long-term increase in earnings and employment. The three adult employability enhancement outcomes are:

(1) Demonstrated proficiency as defined by the local area in one or more of the following two skill areas: basic education skills and occupational skills in which the terminee was deficient at enrollment.

(2) Completed, during enrollment, a level of educational achievement which had not been reached at entry. Levels of educational attainment are secondary and post-secondary. Completion standards shall be governed by State standards and shall include a high school diploma, GED Certificate or equivalent at the secondary level, and shall require a diploma or other written certification of completion at the post-secondary level.

Note: To obtain credit, completion of a major level of education must result primarily from participation of at least 90 days in JTPA activity.

(3) Entered and was retained for at least 90 days in an occupational skills employment/training program, not funded under title II of the JTPA, which builds upon and does not duplicate training received under title II.

Youth Employability Enhancement Termination

An outcome for youth, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for long-term increase in earnings and employment. The five youth employability enhancement outcomes are:

(1) Demonstrated proficiency in youth employment competencies as defined by the PIC in two or more of the following three skill areas in which the terminee was deficieny at enrollment: pre-employment/work maturity, basic education, or job-specific skills.

(2) Returned to full-time secondary school, including alternative school, if, at time of intake, the participant was not attending school, exclusive of summer, and had not obtained a high school diploma or equivalent and who at termination had been retained in school at least one complete State-approved reporting period (but not less than one semester), e.g., semester, year, etc.

(3) Remained in school for a youth who was attending school at the time of intake, had not received a high school diploma or equivalent, was considered "at risk" of dropping out, as defined by the Governor in consultation with the State Education Agency, and who, at termination, had been retained in school for at least one complete State-approved reporting period (but not less than one semester), e.g., semester, year, etc.

Note: To obtain credit for remained in school, retention must result from JTPA activities and the youth must attain a PIC-approved Youth Employability Competency in Basic Skills or Job Specific Skills and be making satisfactory progress as defined by JOBS and the Federal Student Financial Aid Handbook.

(4) Completed, during enrollment, a level of educational achievement which had not been reached at entry. Levels of educational attainment are secondary and post-secondary. Completion standards shall be governed by State standards and shall include a high school diploma, GED Certificate or equivalent at the secondary level, and shall require a diploma or other written certification of completion at the post-secondary level.

Note: To obtain credit, completion of a major level of education must result primarily from participation of at least 90 days in JTPA activity.

(5) Entered and was retained for at least 90 days in an occupational skills employment/training program, not funded under title II of the JTPA, which builds upon and does not duplicate training received under title II.

Education Status

School Dropout—An adult or youth (aged 14–21) who is not attending school full-time

and has not received a high school diploma or a GED certificate.

Student—An adult or youth (aged 14–21) who has not received a high school diploma or GED certificate and is enrolled full-time in a secondary or postsecondary-level vocational, technical, or academic school or is between school terms and intends to return to school.

High School Graduate or Equivalent (No Post-High School)—An adult or youth (aged 14–21) who has received a high school diploma or GED certificate, but who has not attended any postsecondary vocational, technical, or academic school.

Post High School Attendee—An adult or youth (aged 14–21) who has received a high school diploma or GED certificate and has attended (or is attending) any postsecondary-level vocational, technical, or academic school.

Family Status

Single Head of Household—A single, abandoned, separated, divorced or widowed individual who has responsibility for one or more dependent children under age 18.

Race/Ethnic Group

White (Not Hispanic)—A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Black (Not Hispanic)—A person having origins in any of the black racial groups of Africa.

Hispanic—A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin (including Spain), regardless of race.

Note: Among persons from Central and South American countries, only those who are of Spanish origin, descent, or culture should be included in the Hispanic category. Persons from Brazil, Guiana, and Trinidad, for example, would be classified according to their race, and would not necessarily be included in the Hispanic category. Also, the Portuguese should be excluded from the Hispanic category and should be classified according to their race.

American Indian or Alaskan Native—A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander—A person having origins in any or the original peoples of the Far East, Southeast Asia, the Indian subcontinent (e.g., India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan), or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. Hawaiian natives are to be recorded as Asian or Pacific Islanders.

Other Barriers to Employment

Limited English Language Proficienty—Inability of an applicant, whose native language is not English, to communicate in English, resulting in a job handicap.

Handicapped Individual—Refer to sec. 4(10) of the Act. Any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment. This definition includes disabled veterans for reporting purposes.

Note: This definition will be used for performance standards purposes, but is not required to be used for program eligibility determination (sec. 4(8)(E)).

Offender—For reporting purposes, the term "offender" is defined as any adult or youth who requires assistance in overcoming barriers to employment resulting from a record of arrest or conviction (excluding misdemeanors).

Reading Skills Below 7th Grade Level—An adult or youth assessed as having English (except in Puerto Rico) reading skills below the 7th grade level on a generally accepted standardized test.

Note: The following other methods of determination may be used:

• A school record of reading level determined within the last 12 months.

• If an applicant is unable to read and therefore cannot complete a self-application for the JTPA program, s/he may be considered to have English reading skills below the 7th-grade level.

• Individuals with any of the following may be considered to have English reading skills above the 7th-grade level:

—A GED certificate received within the last year.

—A degree (usually a BA or BS) conferred by a 4-year college, university or professional school.

If there is any question regarding reading ability, a standardized test should be administered.

Long-Term AFDC Recipient—An adult or youth listed on the welfare grant who had received cash payments under AFDC (SAA title IV) for any 24 or more of the 30 months prior to JTPA eligibility determination and who was a welfare recipient (as defined below) at the time of such determination.

Lacks Significant Work History—An adult or youth who had not worked for the same employer for longer than three consecutive months in the three years prior to JTPA eligibility determination.

Homeless—Any adult or youth who lacks a fixed, regular, adequate nighttime residence; and an adult or youth who has a primary nighttime residence that is: (1) A publicly or privately operated shelter for temporary accommodation (including welfare hotels, congregate shelters, and transitional housing for the mentally ill, (2) an institution providing temporary residence for individuals intended to be institutionalized, or (3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include a person imprisoned or detained pursuant to an Act of Congress or a State law.

Multiple Barriers to Employment—Any adult or youth who has three or more of the following barriers to employment:

School Dropout
Limited English Language Proficiency
Handicapped/Disabled
Offender
Reading Skills Below the 7th Grade Level
Math Skills Below the 7th Grade Level
Long-Term AFDC Recipient
Homeless
Lacks Significant Work History
Substance Abuse

Note: The term "Substance Abuse" means the abuse of alcohol or other drugs. Substance Abuse and Math Skills Below the 7th Grade Level will not be collected as separate line items on the Job Training Annual Status Report, but will be counted toward multiple barriers.

U.C. Status

Unemployment Compensation Claimant—Any individual who has filed a claims and has been determined monetarily eligible for benefit payments under one or more State or Federal unemployment compensation programs, and who has not exhausted benefit rights or whose benefit year has not ended.

Labor Force Status

Employed—(a) An individual who, during the 7 consecutive days prior to application to a JTPA program, did any work at all: (i) As a paid employee; (ii) in his or her own business, profession or farm, or (iii) worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family; or (b) an individual who was not working, but has a job or business from which he or she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time off, and whether or not seeking another job. (This term includes members of the Armed Forces on active duty, who have not been discharged or separated; participants in registered apprenticeship programs; and self-employed individuals.)

Employed Part-Time—An individual who is regularly scheduled for work less than 30 hours per week.

Unemployed—An individual who did not work during the 7 consecutive days prior to application for a JTPA program, who made specific efforts to find a job within the past 4 weeks prior to application, and who was available for work during the 7 consecutive days prior to application (except for temporary illness).

Unemployed: 15 or More Weeks of Prior 26 Weeks—An individual who is unemployed (refer to definition above) at the time of eligibility determination and has been unemployed for any 15 or more of the 26 weeks immediately prior to such determination, has made specific efforts to find a job throughout the period of unemployment, and is not classified as "Not in Labor Force".

Not in Labor Force—A civilian 14 years of age or over who did not work during the 7 consecutive days prior to application for a JTPA program and is not classified as employed or unemployed.

Welfare Grant Information

Welfare Recipient—An individual listed on the welfare grant who was receiving cash payments under AFDC (SSA title IV), General Assistance (State or local government), or the Refugee Assistance Act of 1980 (Pub. L. 96–212) at the time of JTPA eligibility determination. For reporting and

performance standards purposes, exclude those individuals who receive only SSI (SSA title XVI).

Veteran Status

Veteran—An individual who served in the active military, naval, or air service (of the U.S.), and who was discharged or released therefrom under conditions other than dishonorable.

Note: The term "active" means full-time duty in the Armed Forces, other than duty for training in the reserves or National Guard. Any period of duty for training in the reserves or National Guard, including authorized travel, during which an individual was disabled from a disease or injury incurred or aggravated in the line of duty, is considered "active" duty.

Vietnam-Era Veteran—A veteran, any part of whose active military, naval, or air service occurred between August 5, 1964 and May 7, 1975.

Program Costs

Accrued Expenditures—The allowable charges incurred during the program year to date requiring provision of funds for: (1) Goods and other tangible property received; and (2) costs of services performed by employees, contractors, subrecipients, and other payees.

Note: These charges do not include "resources on order", i.e., amounts for contracts, purchase orders and other obligations for which goods and/or services have not been received.

Training Activity

Training—Includes these training activities:

Remedial education and basic skills training
Literacy and bilingual training
Institutional skill training
Classroom training
Occupational skills training
On-the-job training
On-site industry-specific training
Customized training
Education-to-work transition training
Pre-apprenticeship training
Upgrading and retraining
Vocational explorational training
Work experience training
Training to develop marketable work habits
Coordinated training programs with other Federal employment-related activities

but excludes the following services, unless received concurrently with one or more of the above-included training activities:

Supportive services
Outreach and intake
Orientation
Assessment
Testing
Job or career counseling
Job club activities
Job search assistance
Job placement assistance

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Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their date of notice in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Alabama:

AL89-1 (AL90-1)	Jan. 6, 1989
AL89-2 (AL90-2)	Jan. 6, 1989
AL89-3 (AL90-3)	Jan. 6, 1989
AL89-4 (AL90-4)	Jan. 6, 1989
AL89-5 (AL90-5)	Jan. 6, 1989
AL89-6 (AL90-6)	Jan. 6, 1989
AL89-7 (AL90-7)	Jan. 6, 1989
AL89-8 (AL90-8)	Jan. 6, 1989
AL89-9 (AL90-9)	Jan. 6, 1989
AL89-10 (AL90-10)	Jan. 6, 1989
AL89-11 (AL90-11)	Jan. 6, 1989
AL89-12 (AL90-12)	Jan. 6, 1989
AL89-13 (AL90-13)	Jan. 6, 1989
AL89-14 (AL90-14)	Jan. 6, 1989
AL89-15 (AL90-15)	Jan. 6, 1989
AL89-16 (AL90-16)	Jan. 6, 1989
AL89-17 (AL90-17)	Jan. 6, 1989
AL89-18 (AL90-18)	Jan. 6, 1989
AL89-19 (AL90-19)	Jan. 6, 1989
AL89-20 (AL90-20)	Jan. 6, 1989
AL89-21 (AL90-21)	Jan. 6, 1989
AL89-22 (AL90-22)	Jan. 6, 1989
AL89-23 (AL90-23)	Jan. 6, 1989
AL89-24 (AL90-24)	Jan. 6, 1989
AL89-25 (AL90-25)	Jan. 6, 1989
AL89-26 (AL90-26)	Jan. 6, 1989
AL89-27 (AL90-27)	Jan. 6, 1989
AL89-28 (AL90-28)	Mar. 6, 1989

AL89-29 (AL90-29)	Mar. 6, 1989
AL89-30 (AL90-30)	Jan. 6, 1989
AL89-31 (AL90-31)	Jan. 6, 1989
Alaska: AK89-1 (AK90-1)	Jan. 6, 1989
Arizona:	
AZ89-1 (AZ90-1)	Jan. 6, 1989
AZ89-2 (AZ90-2)	Jan. 6, 1989
AZ89-3 (AZ90-3)	Jan. 6, 1989
AZ89-4 (AZ90-4)	Feb. 6, 1989
Arkansas:	
AR89-1 (AR90-1)	Jan. 6, 1989
AR89-2 (AR90-2)	Jan. 6, 1989
AR89-3 (AR90-3)	Jan. 6, 1989
AR89-4 (AR90-4)	Jan. 6, 1989
AR89-5 (AR90-5)	Jan. 6, 1989
AR89-6 (AR90-6)	Jan. 6, 1989
AR89-7 (AR90-7)	Jan. 6, 1989
AR89-8 (AR90-8)	Jan. 6, 1989
California:	
CA89-1 (CA90-1)	Jan. 6, 1989
CA89-2 (CA90-2)	Jan. 6, 1989
CA89-3 (CA90-3)	Jan. 6, 1989
CA89-4 (CA90-4)	Jan. 6, 1989
Colorado:	
CO89-1 (CO90-1)	Jan. 6, 1989
CO89-2 (CO90-2)	Jan. 6, 1989
CO89-3 (CO90-3)	Jan. 6, 1989
CO89-4 (CO90-4)	Jan. 6, 1989
Connecticut:	
CT89-1 (CT90-1)	Jan. 6, 1989
CT89-2 (CT90-2)	Jan. 6, 1989
Delaware:	
DE89-1 (DE90-1)	Jan. 6, 1989
DE89-2 (DE90-2)	Jan. 6, 1989
Dist. of Col:	
DC89-1 (DC90-1)	Jan. 6, 1989
DC89-2 (DC90-2)	Jan. 6, 1989
Florida:	
FL89-1 (FL90-1)	Jan. 6, 1989
FL89-2 (FL90-2)	Jan. 6, 1989
FL89-3 (FL90-3)	Jan. 6, 1989
FL89-4 (FL90-4)	Jan. 6, 1989
FL89-5 (FL90-5)	Jan. 6, 1989
FL89-6 (FL90-6)	Jan. 6, 1989
FL89-7 (FL90-7)	Jan. 6, 1989
FL89-8 (FL90-8)	Jan. 6, 1989
FL89-9 (FL90-9)	Jan. 6, 1989
FL89-10 (FL90-10)	Jan. 6, 1989
FL89-11 (FL90-11)	Jan. 6, 1989
FL89-12 (FL90-12)	Jan. 6, 1989
FL89-13 (FL90-13)	Jan. 6, 1989
FL89-14 (FL90-14)	Jan. 6, 1989
FL89-15 (FL90-15)	Jan. 6, 1989
FL89-16 (FL90-16)	Jan. 6, 1989
FL89-17 (FL90-17)	Jan. 6, 1989
FL89-18 (FL90-18)	Jan. 6, 1989
FL89-19 (FL90-19)	Jan. 6, 1989
FL89-20 (FL90-20)	Jan. 6, 1989
FL89-21 (FL90-21)	Jan. 6, 1989
FL89-22 (FL90-22)	Jan. 6, 1989
FL89-23 (FL90-23)	Jan. 6, 1989
FL89-24 (FL90-24)	Jan. 6, 1989
FL89-25 (FL90-25)	Jan. 6, 1989
FL89-26 (FL90-26)	Jan. 6, 1989
FL89-27 (FL90-27)	Jan. 6, 1989
FL89-28 (FL90-28)	Jan. 6, 1989
FL89-29 (FL90-29)	Jan. 6, 1989
FL89-30 (FL90-30)	Jan. 6, 1989
FL89-31 (FL90-31)	Jan. 6, 1989
FL89-32 (FL90-32)	Jan. 6, 1989
FL89-33 (FL90-33)	Jan. 6, 1989
FL89-34 (FL90-34)	Jan. 6, 1989
FL89-35 (FL90-35)	Jan. 6, 1989
Georgia:	
GA89-1 (GA90-1)	Jan. 6, 1989
GA89-2 (GA90-2)	Jan. 6, 1989
GA89-3 (GA90-3)	Jan. 6, 1989
GA89-4 (GA90-4)	Jan. 6, 1989
GA89-5 (GA90-5)	Jan. 6, 1989
GA89-6 (GA90-6)	Jan. 6, 1989
GA89-7 (GA90-7)	Jan. 6, 1989
GA89-8 (GA90-8)	Jan. 6, 1989
GA89-9 (GA90-9)	Jan. 6, 1989
GA89-10 (GA90-10)	Jan. 6, 1989
GA89-11 (GA90-11)	Jan. 6, 1989
GA89-12 (GA90-12)	Jan. 6, 1989
GA89-13 (GA90-13)	Jan. 6, 1989
GA89-14 (GA90-14)	Jan. 6, 1989
GA89-15 (GA90-15)	Jan. 6, 1989
GA89-16 (GA90-16)	Jan. 6, 1989
GA89-17 (GA90-17)	Jan. 6, 1989
GA89-18 (GA90-18)	Jan. 6, 1989
GA89-19 (GA90-19)	Jan. 6, 1989
GA89-20 (GA90-20)	Jan. 6, 1989
GA89-21 (GA90-21)	Jan. 6, 1989
GA89-22 (GA90-22)	Jan. 6, 1989
GA89-23 (GA90-23)	May 8, 1989
GA89-24 (GA90-24)	Sept. 25, 1989
GA89-25 (GA90-25)	Sept. 25, 1989
GA89-26 (GA90-26)	Sept. 25, 1989
GA89-27 (GA90-27)	Sept. 25, 1989
GA89-28 (GA90-28)	Sept. 25, 1989
GA89-29 (GA90-29)	Sept. 25, 1989
GA89-30 (GA90-30)	Sept. 25, 1989
GA89-31 (GA90-31)	Sept. 25, 1989
Guam: GU89-1 (GU90-1)	Jan. 6, 1989
Hawaii: HI89-1 (HI90-1)	Jan. 6, 1989
Idaho:	
ID89-1 (ID90-1)	Jan. 6, 1989
ID89-2 (ID90-2)	Jan. 6, 1989
ID89-3 (ID90-3)	Jan. 6, 1989
ID89-4 (ID90-4)	Jan. 6, 1989
ID89-5 (ID90-5)	Aug. 21, 1989
ID89-1 (ID90-1)	Jan. 6, 1989
Illinois:	
IL89-1 (IL90-1)	Jan. 6, 1989
IL89-2 (IL90-2)	Jan. 6, 1989
IL89-3 (IL90-3)	Jan. 6, 1989
IL89-4 (IL90-4)	Jan. 6, 1989
IL89-5 (IL90-5)	Jan. 6, 1989
IL89-6 (IL90-6)	Jan. 6, 1989
IL89-7 (IL90-7)	Jan. 6, 1989
IL89-8 (IL90-8)	Jan. 6, 1989
IL89-9 (IL90-9)	Jan. 6, 1989
IL89-10 (IL90-10)	Jan 6, 1989
IL89-11 (IL90-11)	Jan. 6, 1989
IL89-12 (IL90-12)	Jan. 6, 1989
IL89-13 (IL90-13)	Jan. 6, 1989
IL89-14 (IL90-14)	Jan. 6, 1989
IL89-15 (IL90-15)	Jan. 6, 1989
IL89-16 (IL90-16)	Jan. 6, 1989
IL89-17 (IL90-17)	Jan. 6, 1989
IL89-18 (IL90-18)	Jan. 6, 1989
IL89-19 (IL90-19)	Jan. 6, 1989
Indiana:	
IN89-1 (IN90-1)	Jan. 6, 1989
IN89-2 (IN90-2)	Jan. 6, 1989
IN89-3 (IN90-3)	Jan. 6, 1989
IN89-4 (IN90-4)	Jan. 6, 1989
IN89-5 (IN90-5)	Jan. 6, 1989
IN89-6 (IN90-6)	Jan. 6, 1989
IN89-7 (IN90-7)	Jan. 6, 1989
IN89-8 (IN90-8)	Jan. 6, 1989
IN89-9 (IN90-9)	Jan. 6, 1989
IN89-10 (IN90-10)	Jan. 6, 1989
IN89-11 (IN90-11)	Jan. 6, 1989
IN89-12 (IN90-12)	Jan. 6, 1989
IN89-13 (IN90-13)	Jan. 6, 1989
IN89-14 (IN90-14)	Jan. 6, 1989
IN89-15 (IN90-15)	Mar. 7, 1989
Iowa:	
IA89-1 (IA90-1)	Jan. 6, 1989
IA89-2 (IA90-2)	Jan. 6, 1989
IA89-3 (IA90-3)	Jan. 6, 1989
IA89-4 (IA90-4)	Jan. 6, 1989
IA89-5 (IA90-5)	Jan. 6, 1989
IA89-6 (IA90-6)	Jan. 6, 1989
IA89-7 (IA90-7)	Jan. 6, 1989
IA89-8 (IA90-8)	Jan. 6, 1989
IA89-9 (IA90-9)	Jan. 6, 1989
IA89-10 (IA90-10)	Apr. 11, 1989
IA89-13 (IA90-13)	Jan. 6, 1989
Kansas:	
KS89-1 (KS90-1)	Jan. 6, 1989
KS89-2 (KS90-2)	Jan. 6, 1989
KS89-3 (KS90-3)	Jan. 6, 1989
KS89-4 (KS90-4)	Jan. 6, 1989
KS89-5 (KS90-5)	Jan. 6, 1989
KS89-6 (KS90-6)	Jan. 6, 1989
KS89-7 (KS90-7)	Jan. 6, 1989
KS89-8 (KS90-8)	Jan. 6, 1989
KS89-9 (KS90-9)	Jan. 6, 1989
Kentucky:	
KY89-1 (KY90-1)	Jan. 6, 1989
KY89-2 (KY90-2)	Jan. 6, 1989
KY89-3 (KY90-3)	Jan. 6, 1989
KY89-4 (KY90-4)	Jan. 6, 1989
KY89-5 (KY90-5)	Jan. 6, 1989
KY89-6 (KY90-6)	Jan. 6, 1989
KY89-7 (KY90-7)	Jan. 6, 1989
KY89-8 (KY90-8)	Jan. 6, 1989
KY89-9 (KY90-9)	Jan. 6, 1989
KY89-10 (KY90-10)	Jan. 6, 1989
KY89-11 (KY90-11)	Jan. 6, 1989
KY89-12 (KY90-12)	Jan. 6, 1989
KY89-13 (KY90-13)	Jan. 6, 1989
KY89-14 (KY90-14)	Jan. 6, 1989
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KY89-17 (KY90-17)	Jan. 6, 1989
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KY89-21 (KY90-21)	Jan. 6, 1989
KY89-22 (KY90-22)	Jan. 6, 1989
KY89-23 (KY90-23)	Jan. 6, 1989
KY89-24 (KY90-24)	Jan. 6, 1989
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KY89-26 (KY90-26)	Jan. 6, 1989
KY89-27 (KY90-27)	Jan. 6, 1989
KY89-28 (KY90-28)	Jan. 6, 1989
KY89-29 (KY90-29)	Jan. 6, 1989
Louisiana:	
LA89-1 (LA90-1)	Jan. 6, 1989
LA89-2 (LA90-2)	Jan. 6, 1989
LA89-3 (LA90-3)	Jan. 6, 1989
LA89-4 (LA90-4)	Jan. 6, 1989
LA89-5 (LA90-5)	Jan. 6, 1989
LA89-6 (LA90-6)	Oct. 16, 1989
LA89-7 (LA90-7)	Oct. 16, 1989
LA89-8 (LA90-8)	Oct. 16, 1989
Maine:	
ME89-1 (ME90-1)	Jan. 6, 1989
ME89-2 (ME90-2)	Jan. 6, 1989
ME89-3 (ME90-3)	Jan. 6, 1989
Maryland:	
MD89-1 (MD90-1)	Jan. 6, 1989
MD89-2 (MD90-2)	Jan. 6, 1989
MD89-3 (MD90-3)	Jan. 6, 1989
MD89-4 (MD90-4)	Jan. 6, 1989
MD89-5 (MD90-5)	Jan. 6, 1989
MD89-6 (MD90-6)	Jan. 6, 1989
MD89-7 (MD90-7)	Jan. 6, 1989
MD89-8 (MD90-8)	Jan. 6, 1989
MD89-9 (MD90-9)	Jan. 6, 1989

MD89–10 (MD90–10) Jan. 6, 1989
MD89–11 (MD90–11) Jan. 6, 1989
MD89–12 (MD90–12) Jan. 6, 1989
MD89–13 (MD90–13) Jan. 6, 1989
MD89–14 (MD90–14) Jan. 6, 1989
MD89–15 (MD90–15) Jan. 6, 1989
MD89–16 (MD90–16) Jan. 6, 1989
MD89–17 (MD90–17) Jan. 6, 1989
MD89–18 (MD90–18) Jan. 6, 1989
MD89–19 (MD90–19) Jan. 6, 1989
MD89–20 (MD90–20) Jan. 6, 1989
MD89–21 (MD90–21) Jan. 6, 1989
MD89–22 (MD90–22) Jan. 6, 1989

Massachussetts:
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MA89–3 (MA90–3) Jan. 6, 1989

Michigan:
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Minnesota:
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Mississippi:
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Missouri:
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Montana:
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Nebraska:
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Nevada:
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New Hampshire:
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New Jersey:
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New Mexico:
NM89–1 (NM90–1) Jan. 6, 1989
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New York:
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North Carolina:
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North Dakota:
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Ohio:
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Oklahoma:
OK89–1 (OK90–1) Jan. 6, 1989

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OK89-17 (OK90-17) .... Feb. 6, 1989
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OK89-19 (OK90-19) .... May 1, 1989
OK89-20 (OK90-20) .... July 17, 1989

Oregon:
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Pennsylvania:
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Puerto Rico:
PR89-1 (PR90-1) .... Jan. 6, 1989
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PR89-3 (PR90-3) .... Jan. 6, 1989

Rhode Island: RI89-1 (RI90-1). Jan. 6, 1989

South Carolina:
SC89-1 (SC90-1) .... Jan. 6, 1989
SC89-2 (SC90-2) .... Jan. 6, 1989
SC89-3 (SC90-3) .... Jan. 6, 1989
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SC89-22 (SC90-22) .... Jan. 6, 1989

South Dakota:
SD89-1 (SD90-1) .... Jan. 6, 1989
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SD89-3 (SD90-3) .... Feb. 27, 1989
SD89-4 (SD90-4) .... Oct. 9, 1989

Tennessee:
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Texas:
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Utah:
UT89-1 (UT90-1) .... Jan. 6, 1989
UT89-2 (UT90-2) .... Jan. 6, 1989
UT89-3 (UT90-3) .... July 7, 1989

Vermont:
VT89-1 (VT90-1) .... Jan. 6, 1989
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Virginia:
VA89-1 (VA90-1) .... Jan. 6, 1989
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Virgin Islands:
VI89-1 (VI90-1) .... Jan. 6, 1989
VI89-2 (VI90-2) .... Jan. 6, 1989

Washington:
WA89-1 (WA90-1) .... Jan. 6, 1989
WA89-2 (WA90-2) .... Jan. 6, 1989
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West Virginia:
WV89-1 (WV90-1) .... Jan. 6, 1989
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Wisconsin:
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WI89-14 (WI90-14) .... Jan. 6, 1989
WI89-15 (WI90-15) .... Jan. 6, 1989
WI89-16 (WI90-16) .... Jan. 6, 1989

Wyoming:
WY89-1 (WY90-1) .... Jan. 6, 1989
WY89-2 (WY90-2) .... June 16, 1989
WY89-3 (WY90-3) .... June 16, 1989

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $280.00 for Volume I, $312.00 for Volume II, and $250.00 for Volume III. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 29th day of December 1989.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-213 Filed 1-4-90; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 16th meeting on January 24-26, 1990, Room P-110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m.-5:00 p.m. each day. This meeting will be open to public attendance.

The purpose of the meeting will be to review and discuss:

A. *Meeting with the NRC Executive Director for Operations*—The Committee will meet with the EDO to discuss items of current interest, including the basis for deferring planned NRC staff action regarding the definition of "Substantially Complete Containment."

B. *Selected Study Plans*—The Committee will review and comment on selected Study Plans related to the HLW geologic respository site characterization and be briefed on the status of all Study Plans and anticipated dates for review. Study Plans on: (1) Evaluation of the Location and Recency of Faulting Near Prospective Surface Facilities and (2) Characterization of the Yucca Mountain Quaternary Regional Hydrology (tentative) are expected to be ready for review.

C. *Meeting with NRC Low-Level Nuclear Waste Director*—Mr. Bangart, Director, DLLWM, will discuss the overall strategy of low-level waste projects and how they form a coherent program to ensure safety.

D. *Storage of Spent Nuclear Fuel*—The Committee will review and comment on the NRC staff proposed final rule on the storage of spent nuclear fuel in NRC-approved casks at civilian nuclear power plant sites.

E. *American Society for Testing Materials*—The Committee will be briefed on the radioactive waste activities (waste management, disposal, and transportation) of ASTM.

F. *Use of Metrification System*—The Committee will discuss proposed comments regarding the use of the metric system in the regulatory process.

G. *Schedule for NRC/DOE Activities regarding the Geologic Respository*—The Committee will be briefed on the current schedule for NRC/DOE activities related to the high-level nuclear waste geologic repository.

H. *Committee Activities*—The Committee will discuss anticipated and proposed Committee activities, future meeting agenda, and organizational matters, as appropriate.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The Office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvience.

Dated: December 29, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-285 Filed 1-4-90; 8:45 am]

BILLING CODE 7590-01-M

Correction to Bi-Weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration

On October 4, 1989, the Federal Register published the Bi-Weekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration. On page 40938, under System Energy Resources, Inc., et al., Docket No. 50-416, the number of the amendment issued should have been Amendment No. 63.

Dated at Rockville, Maryland, this 18th day of October 1989.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-260 Filed 1-4-90; 8:45 am]

BILLING CODE 7590-01-M

[Project No. 677]

Arkansas Tech University; Receipt of Application for Construction Permit and Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from Arkansas Tech University dated November 13, 1989 as supplemented on December 19, 1989 filed pursuant to Section 104c of the Atomic Energy Act of 1954, as amended (the Act), for the necessary licenses to construct and operate a TRIGA nuclear reactor. The reactor is to be constructed for Arkansas Tech University and will be located on the campus of Arkansas Tech University in Russellville, Arkansas. It is proposed for operation at a steady state power level of 250 kilowatts and with pulse maximum reactivity insertions of 2.00$ for educational training and research.

A copy of the application is available for public inspection at the Commission's Public Document Room, the Gelman Building, at 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 28th day of December 1989.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-261 Filed 1-4-90; 8:45 am]

BILLING CODE 7590-01-M

Grand Gulf Nuclear Station, Unit 2; System Energy Resources, Inc., South Mississippi Electric Power Association, Mississippi Power & Light Company; Issuance of Amendment to Construction Permit

[Docket No. 50-417]

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Construction Permit No. CPPR-119 for the Grand Gulf Nuclear Station, Unit 2 (GGNS-2) to reflect a transfer of authority to construct GGNS-2 from System Energy Resources, Inc. (SERI) to Energy Operations, Inc. (EOI). The amendment was requested by letters dated August 21, 1989, September 27, 1989, and November 21, 1989.

The issuance of this amendment to Construction Permit No. CPPR-119 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, wich is set forth in Amendment No. 9. Prior public notice of Amendment No. 9 was not required, since the amendment does not involve a significant hazards consideration. Notification of receipt and a request for comments on antitrust issues were published in the Federal Register on November 1, 1989 (54 FR 46168). The November 21, 1989 letter contained only minor corrections to the original submittal. It was therefore determined unnecessary to renotice the application. Antitrust comments were received and are addressed in the Commission's related Safety Evaluation.

For further details with respect to this action see (1) the letters requesting the amendment dated August 21, 1989, September 27, 1989, and November 21, 1989, (2) Amendment No. 9 to Construction Permit No. CPPR-119, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local Public Document Room at Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

In addition, a copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington DC 20555, Attention: Director, Project Directorate II-1, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland, this 22nd day of December 1989.

For the Nuclear Regulatory Commission.

Lester L. Kintner,

Project Manager, Project Directorate II-1, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 90-259 Filed 1-4-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Small Business Competitiveness Demonstration Program; Proposed Subcontract Reporting System Test Plan and Reporting Form

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget (OFPP).

ACTION: The Office of Management and Budget is requesting comments on a proposed OFPP Subcontract Reporting System Test Plan and Reporting Form that provide guidance on reporting subcontract activity under the Small Business Competitiveness.

SUMMARY: The proposed Subcontract Reporting System Test Plan and Reporting Form are being issued to implement Section 714(b) of Title VII of the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656). Section 714(b) requires the Administrator for Federal Procurement Policy to devise and implement, during a Small Business Competitiveness Demonstration Program, a simplified system to test the collection, reporting, and monitoring of data on subcontract awards to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals for—

(1) Services in the designated industry groups; and

(2) products or services from targeted industry categories selected for participation in the small business participation expansion program.

The primary purpose of this new reporting system is to determine the extent of participation by small business and small disadvantaged business firms in the Federal procurement market at the subcontract level. Also, this new reporting system is intended to collect subcontracting data under a broader range of contract awards than are covered by the existing reporting requirements of Public Law 95-507.

COMMENT DATE: Comments must be received on or before February 20, 1990.

ADDRESS: Comments should be sent to Allan V. Burman, Administrator

Designate, Office of Federal Procurement Policy, Office of Management and Budget, 725 17th Street, NW., Room 9001, Washington, DC 20503.

Comments on the information collection requirements. The test reporting system requires Federal prime contractors (other than small business and small disadvantaged business firms) to collect and report subcontract activity in support of the Federal prime contract. This information collection may place a substantial reporting burden on the Federal prime contractors participating in the reporting system. Comments are solicited on the impact of this reporting requirement on existing industry subcontract data collection systems. Specifically, comments are requested on the anticipated costs associated with complying with the reporting requirements of this test reporting system.

Comments pertaining to the Subcontract Reporting System Test Plan and Reporting Form should be submitted both to the OFPP Administrator Designate at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Yvette Flynn, Desk Officer for the Federal Acquisition Regulation.

FOR FURTHER INFORMATION CONTACT: Linda G. Williams, Deputy Associate Administrator, (202) 395-3300.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to the Small Business Act, prime contractors and subcontractors (except small business firms) that receive one or more contracts over $500,000 ($1 million for construction) are required to submit a subcontracting plan with goals for using small business and small disadvantaged business concerns as subcontractors under Federal prime contracts, and to report accomplishments against the goals. Concerns have been expressed that small business firms actually receive more subcontracting opportunities than are being reported under the existing reporting system. As part of the Small Business Competitiveness Demonstration, OFPP is required to establish a simplified reporting system to test the range of small business and small disadvantaged business participation at the subcontract level.

B. Regulatory Flexibility Act

This reporting system will not have an significant impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and, therefore, no Regulatory Impact analysis has been prepared.

The system seeks to measure the amount of small business participation in subcontracts. The reporting requirements of the system will be imposed on large businesses and, as such, there is no cost to small businesses.

C. Executive Order No. 12291

This reporting system has been reviewed in accordance with the objectives and criteria of Executive Order No. 12291. The system will not result in any of the economic or regulatory impacts associated with a major rule. The system will not have an annual effect on the economy of $100 million or more and will not result in a major increase in cost for consumers, individual industries, State and local government agencies, or geographic regions and would not have an adverse effect on competition, employment, investment, productivity, innovation, and the ability of United States based industries to compete with foreign-based enterprises in domestic or export markets.

D. Paperwork Reduction Act

The information collection requirements for this reporting system have been submitted to the Office of Management and Budget for approval.

List of Subjects

Government procurement, Small business procurement.

Dated: December 28, 1989.

Allan V. Burman,

Administrator Designate.

OFPP POLICY LETTER 90-XX

To the Heads of Selected Executive Departments and Establishments

SUBJECT: The Subcontract Reporting System Test Plan and Reporting Form—Small Business Competitiveness Demonstration Program

1. *Purpose.* This Policy Letter provides policy direction to the Department of Defense, Department of Energy, and the National Aeronautics and Space Administration for implementation of section 714(b) of Title VII of the Business Opportunity Development Reform Act of 1988 (Pub. Law 100-656), that establishes the requirement for a simplified Subcontract Reporting System.

2. *Authority.* The requirement for a simplified Subcontract Reporting System is established pursuant to section 714(b) of Public Law 100-656 and section 15 of the Office of Federal Procurement Policy Act, 41 U.S.C. 413, which provides for the testing of innovative procurement methods and procedures.

3. *Background.* Pursuant to the Small Business Act, prime contractors and subcontractors (except small business firms) that receive one or more contracts over $500,000 ($1 million in construction) are required to submit a subcontracting plan with goals for using small business and small disadvantaged business concerns as subcontractors under Federal prime contracts and to report accomplishments against the goals. Concerns have been expressed that the current reporting system does not provide information on the full range of participation by small business firms in the Federal procurement process. As part of the Small Business Competitiveness Demonstration Program, OFPP is to devise and implement a simplified system to test the collection, reporting, and monitoring of data on subcontract awards to these firms for services in the designated industry groups and products or services in the targeted industry categories.

4. *Policy.* The simplified Subcontract Reporting System is designed to test the range of small business and small disadvanced business participation in the Federal procurement market at the subcontract level. The procedures for implementing the test are set forth in the attached test plan.

5. *Implementation.* The participating agencies are required to implement the attached test plan commencing on March 1, 1990. Since this a limited test, these requirements will not be implemented in the Federal Acquisition Regulation.

6. *Expiration Date.* The simplified Subcontract Reporting System shall be in effect through December 31, 1992.

Allan V. Burman,

Administrator Designate.

Subcontract Reporting System Test Plan Small Business Competitiveness Demonstration Program

I. Purpose

This document implements section 714(b) of Title VII of the Business Opportunity Development Reform Act of 1988 (Pub. Law 100-656). Section 714(b) requires the Administrator for Federal Procurement Policy to devise and implement, during the Small Business Competitiveness Demonstration Program, a simplified system to test the collection, reporting, and monitoring of data on subcontract awards to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals for—

(1) Services in the designated industry groups; and

(2) Products or services from targeted industry categories selected for participation in the small business participation expansion program.

The primary purpose of this new reporting system is to determine the extent of participation by small business and small disadvantaged business firms in the Federal procurement market at

the subcontract level. Also, this new reporting system is intended to collect subcontracting data under a broader dollar range of contract awards than are covered by the existing reporting requirements of Public Law 95–507.

Theoretically, the test reporting system could extend to all designated industry groups and targeted industry categories at all tiers of subcontracting. However, we have determined that initially the system will cover subcontract activity through four tiers in one designated industry group and two targeted industry categories from each covered agency. We will evaluate this approach and determine if it is cost effective to extend the coverage of the system or collect this information at lower tiers in the future.

II. Authority

The requirement for a simplified subcontract reporting system (the System) is established pursuant to section 714(b) of Title VII of the Business Opportunity Development Reform Act of 1988 and section 15 of the Office of Federal Procurement Policy Act, 41 U.S.C. 413, which provides for the testing of innovative procurement methods and procedures.

III. Program Requirements

A. Applicability

The System shall be in effect from March 1, 1990 through December 31, 1992 and shall include subcontract data under a limited number of prime contracts awarded from solicitations issued during the same period. The System shall be applicable to data collected from prime contractors, excluding small business and small disadvantaged business firms, that receive a prime contract in the covered designated industry group or targeted industry categories with an anticipated award value over $25,000 and which has the possibility for subcontracting opportunities. (See subsections (C) and (D) below.) The prime contractors shall report information on all subcontract awards through the fourth tier that are directly needed for prime contract performance, irrespective of the product or service provided under the subcontract.

B. Covered Agencies and Purchasing Offices

1. The following agencies are covered by the System:

a. The Department of Defense,

b. The Department of Energy, and

c. The National Aeronautics and Space Administration.

2. Each agency shall select, in consultation with OFPP, a limited number of contracting offices to report information from prime contractors to the System. Each covered agency shall ensure that the selected offices historically shall have awarded a significant amount of the agency's total contract obligations in the covered designated industry group of the two targeted industry categories.

C. Covered Designated Industry Group

Subcontract awards under a limited number of prime contracts in the following designated industry group are to be reported under the System: Architectural and engineering (A&E) services (including surveying and mapping) under standard industrial classification (SIC) codes 7389, 8711, 8712, or 8713 (limited to FPDS service codes C111 through C216, C219, T002, T004, T008, T009, T014, and R404).

D. Covered Targeted Industry Categories

Each covered agency shall, in consultation with OFPP, designate two of its ten targeted industry categories on which to collect and report subcontract activity under a limited number of prime contracts in the two categories. These two categories shall be determined based on the greatest potential for small business participation as subcontractors.

E. Contract Clause for Procurements Covered by the System

The following clause shall be inserted in selected contracts and solicitations covered by the System that are issued from March 1, 1990 through December 31, 1992 with an estimated contract value that is expected to exceed $25,000 and which have the possibility for subcontracting opportunities. The clause is not applicable to small business and small disadvantaged business firms.

Subcontract Reporting Under the Small Business Competitiveness Demonstration Program (MAR 1990)

(a) The Contractor shall submit a completed Form XXX in accordance with instructions on the Form.

(b) The Contractor shall include subparagraph (a) of this clause in all subcontracts awarded under this contract, excluding subcontracts with small business and small disadvantaged business firms, non-profits, educational institutions, and state and local governments. The Contractor shall also include this subparagraph (b), or its equivalent, in any such subcontract so that these requirements will be binding upon all subcontracts awarded at all tiers.

(c) The Contractor shall include the prime contract number in all subcontracts and require all subcontractors (except small business and small disadvantaged business firms, non profits, educational institutions, and state and local governments) to include both the prime contract number and their subcontract number in their subcontracts. (Note: The prime contract number shall be the identifier used to track all subcontract activity under the prime contract.)

IV. Reporting

A. Subcontract Data

1. A separate reporting form has been designed to collect data from contractors in support of the System (see attached Form XXX). The instructions require the prime contractors to report the data, on a semi-annual basis, to the covered agencies within 60 days after the end of the reporting period. The Federal prime contractor shall establish a reporting schedule for its subcontractors such that the consolidated reports can be submitted to the covered agency within 60 days.

2. The attached flow chart (Attachment A) indicates the responsibility of the Federal prime contractor for collecting and reporting subcontract data by tiers.

3. Each covered agency's Office of Small and Disadvantaged Business Utilization (OSDBU) shall submit to OFPP its subcontracting activity on a semi-annual basis, within 90 days after the end of the reporting period. OSDBU shall be responsible for establishing a procedure for the collection of the hardcopy Forms XXX from each contracting office that has been designated to participate in the Reporting System in order to compile the information. Each covered agency shall submit an individual Form XXX for each selected prime contract.

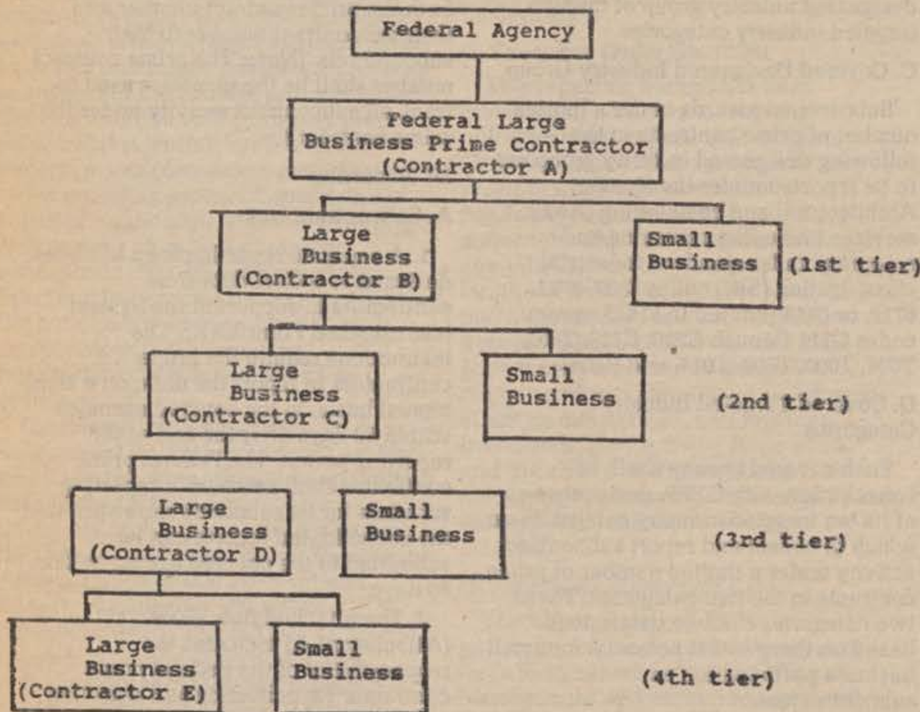
B. Availability of Form XXX

Copies of Form XXX will be forwarded to the covered agencies by OFPP. Contracting officials from the designated contracting offices shall be responsible for providing the original copy of Form XXX to the prime contractors. The Federal prime contractor shall be responsible for ensuring that its subcontractors in support of the prime contract receive copies of the Form. Each subcontractor (other than small business and small disadvantaged business firms) shall also

ensure that its subcontractors receive copies of the Form.

V. Monitoring

OFPP shall monitor agency accomplishments and issue an Annual Report on the subcontracting activity under the Small Business Competitiveness Demonstration Program.



• The Federal prime contractor (other than a small business or small disadvantaged business firm) receives a contract in excess of $25,000 in the covered designated industry group or targeted industry categories. The Federal prime contractor is responsible for ensuring that data concerning subcontracting activity in support of the prime contract is collected and reported in accordance with instructions on Form XXX.

• Subcontracting activity is reported by the subcontractors (other than small business or small disadvantaged business subcontractors) to the Federal prime contractor rather than to the Federal agency.

• The Federal prime contractor must include the prime contract number in each subcontract and require the subcontractor (other than a small business and small disadvantaged business subcontractor) to include both the prime contract number and its subcontract number in its subcontracts.

• An example of a Federal prime contractor's responsibility for collecting and reporting subcontracting activity under a Federal prime contract:

—Contractor A is a Federal prime contractor (other than a small business or small disadvantaged business firm) who received a prime contract over $25,000 from a Federal agency in the designated industry group or targeted industry categories.

—Contractor A subcontracts part of the effort to other large (Contractor B) or small business firms. This is considered the 1st tier of subcontracting in support of the prime contract. Contractor A is responsible for reporting its subcontracting activity in Item 11 on Form XXX.

—Contractor B is a subcontractor (other than a small business or small disadvantaged business firm) who received a subcontract from contractor A, and subcontracts part of the effort to other large (Contractor C) or small business firms. This is considered the 2nd tier of subcontracting. Contractor B is responsible for reporting its subcontracting activity to Contractor A using Item 11 on Form XXX. Contractor B must also be responsible for collecting Contractor C's Form XXX (which will have Contractor D's Form attached) and sending the documents to Contractor A.

—Contractor C is a subcontractor (other than a small business or small disadvantaged business) who received a subcontract from Contractor B, and subcontracts part of the effort to other large (Contractor D) or small business firms. This is considered the 3rd tier of subcontracting. Contractor C is responsible for reporting its subcontracting activity to Contractor B using Item 11 on Form XXX. Contractor C must also be responsible for collecting Contractor D's Form XXX and sending it to Contractor B, along with its Form.

—This continues through 4 tiers of subcontracting.

—Contractor A is responsible for aggregating the subcontracting data from its tiers and reporting the information in Item 12 on Form XXX.

BILLING CODE 3110-M

SUBCONTRACT ACTIVITY FOR INDIVIDUAL CONTRACTS

SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM
SUBCONTRACT REPORTING SYSTEM TEST PLAN REPORT
(THIS FORM SHALL NOT BE COMPLETED BY SMALL BUSINESS FIRMS)

PART I. TO BE COMPLETED BY FEDERAL CONTRACTING ACTIVITY

1. PARTICIPATING AGENCY

2. CONTRACTING ACTIVITY

3. FEDERAL PRIME CONTRACT NUMBER ____________________

4. REPORT IS FOR:
DIG SIC # ____________________ OR
TIC SIC # ____________________

PART II. TO BE COMPLETED BY FEDERAL PRIME CONTRACTORS AND/OR SUBCONTRACTORS

5. REPORTING CONTRACTOR/SUBCONTRACTOR

6. DATE: ____/____/____

7. REPORTING ENTITY'S CONTRACT NUMBER ____________________

8. REPORTING ENTITY'S TIER LEVEL ____________________

9. REPORTING PERIOD:
FISCAL YEAR______
[ ] OCT 1 - MARCH 31
[ ] APR 1 - SEPT 30

10. REPORT IS:
[ ] REGULAR
[ ] FINAL
[ ] REVISION

11. SUBCONTRACT AWARDS THIS PERIOD (ROUNDED WHOLE DOLLARS)

	DOLLARS
(a) SMALL BUSINESS (INCLUDING SMALL DISADVANTAGED) ($ AMOUNT OF 11(c))	$____________
(b) LARGE BUSINESS ($ AMOUNT OF 11(c))	$____________
(c) TOTAL (SUM OF 11(a) AND 11(b))	$____________
(d) SMALL DISADVANTAGED BUSINESS ($ AMOUNT OF 11(c))	$____________

PART III. TO BE COMPLETED BY FEDERAL PRIME CONTRACTORS ONLY

12. CUMULATIVE SUBCONTRACT AWARDS (BY TIER)

TIER	(a) SMALL BUSINESS (INCLUDING DISADVANTAGED)	(b) LARGE BUSINESS	(c) CUMULATIVE TOTAL	(d) SMALL DISADVANTAGED BUSINESS
1st	$______	$______	$______	$______
2nd	$______	$______	$______	$______
3rd	$______	$______	$______	$______
4th	$______	$______	$______	$______
Total	$______	$______	$______	$______

PART IV. TO BE COMPLETED BY FEDERAL PRIME CONTRACTORS AND/OR SUBCONTRACTORS

13. NAME/TITLE ____________________ SIGNATURE ____________________ TELEPHONE NUMBER ____________________

14. REPORT APPROVED BY:

____________________ ____________________
NAME AND TITLE SIGNATURE

BILLING CODE 3110-C

FORM XXX

General Instructions

Subcontract Activity for Individual Contracts

1. This form collects subcontract data from prime contractors (except small business and small disadvantaged business firms) that receive a Federal contract over $25,000 in the covered designated industry group or targeted industry categories included in the Subcontract Reporting System Test Plan established pursuant to section 714(b) of Title VII of the Business Opportunity Development Reform Act of 1988 (Pub. L. 100–656). The purpose of this test is to determine the extent of participation by small business and small disadvantaged business firms in the Federal procurement market at the subcontract level.

The form shall also be used by the prime contractor to collect subcontract data from its subcontractors in support of the Federal prime contract.

2. Federal prime contractors are responsible for collecting and reporting subcontract activity through the fourth tier in support of the prime contract irrespective of the product or service provided under the subcontract.

3. Federal prime contractors are also required to include the prime contract number in each of their subcontracts and to require their subcontractors (except small business and small disadvantaged business firms) to include both the prime contract number and the subcontract number shall be the identifier used by the large business Federal prime contractor to track all subcontract activity under the prime contracts covered by the System.

4. Federal prime contractors shall submit the report semiannually, 60 days after the end of each reporting period. The Federal prime contractor must establish a reporting schedule for its subcontractors such that the reports can be consolidated and submitted to the Federal agency within 60 days. A negative report shall be submitted when there has been no subcontracting activity or there has been no change from the last reporting period.

5. All dollar amounts shall be rounded to the nearest whole dollar. All percentages shall be rounded to the nearest tenth of a percent.

6. Only subcontracts involving performance within the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands shall be included in this report.

7. This report shall not be submitted by small business and small disadvantaged business firms.

8. Copies of Form XXX are available from the subcontracting office awarding the prime contract. For subcontractors, the Form is available from the contractor who awarded the subcontract.

Specific Instructions

Part I. To be Completed by Federal Department or Agency

Item 1. Enter the name of the Federal Department or Agency designated to participate in the test reporting system.

Item 2. Enter the name and address of the contracting activity awarding the Federal prime contract.

Item 3. Enter the Federal prime contract number.

Item 4. Enter the standard industrial classification (SIC) number that describes the services in the designated industry group (DIG) or products or services in the targeted industry categories (TIC). Enter the SIC code of the Federal prime contract irrespective of the SIC codes of the subcontracts. Enter the SIC number in the DIG blank if the prime contract is for architectural and engineering services identified by SIC codes 7389, 8711, 8712, or 8713. Otherwise, enter the appropriate SIC in the TIC blank.

Part II. To be Completed by Federal Prime Contractors and/or Subcontractors

Item 5. Enter the name and address of the entity completing the form. The form is a multi-purpose form and shall be used by Federal prime contractors and subcontractors to report their subcontract activity.

Item 6. Enter the date that the form is completed.

Item 7. Enter the reporting entity's contract number. If this report is from a subcontractor, enter the subcontract number.

Item 8. Enter the reporting entity's tier level. Federal prime contractors and subcontractors through the fourth tier (in relation to the Federal prime contract) shall identify their tier level to their subcontractors. As an example, when the Federal prime contractor subcontracts part of the prime contract effort, the prime contractor shall notify the subcontractor that this is the first tier of subcontracting.

The first tier subcontractor shall, in turn, notify its subcontrators that they are the second tier subcontractors.

Item 9. Enter the Federal Fiscal Year and check the appropriate block for the period covered by the report.

Item 10. Check whether the report is a regular report, final report, or a revision to a prior report. If the report is a regular report which contains revisions to a previously submitted report, check revision. Check final report only if the reporting prime contractor/subcontractor has completed all work under the prime contract/subcontract.

Item 11. Enter the dollar amount for subcontract awards to small business (including small disadvantaged business) and large business (excluding subcontracts to non-profits, educational institutions, and state and local governments) subcontractors during this reporting period. Amounts reported include direct awards only. Enter zero if no subcontract awards have been made during the reporting period.

Item 11(d). Enter the dollar amount for subcontract awards to small disadvantaged business subcontractors. This figure is a portion of the total subcontract dollars in 11(c).

Part III. To be Completed by Federal Prime Contractors Only

Item 12. Enter the cumulative dollar amount for subcontract awards to small business (including small disadvantaged business) and large business through the fourth tier of subcontracting related to the prime contract. This figure is the sum of all subcontract dollars reported by the large business subcontractors since award of the prime contract. (For example, the Federal prime contractor shall report in the 1st tier line, its cumulative direct subcontract awards. Under the 2nd tier line, the Federal prime contractor shall include all subcontract awards made by the 1st tier subcontractor).

Item 12(d). Enter the cumulative dollar amount for subcontract awards to small disadvantaged business subcontractors. This figure is a portion of the total subcontract dollars in 12(c) for each respective tier.

Part IV. To be Completed by Federal Prime Contractors and/or Subcontractors

Item 13. Enter the name, title, signature and telephone number of the person completing the report.

Item 14. Enter the name, title, and signature of the approving official. The approving official shall be the chief executive officer or in the case of a separate division or plant, the senior individual responsible for the overall division/plant operations.

Definitions

1. *Federal prime contractor,* as used for this test reporting system, is a business firm (other than a small business or small disadvantaged business) who is awarded a Federal prime contract from one of the participating agencies (DOD, DOE, and

NASA) in the designated industry group or targeted industry categories covered by the Subcontract Reporting System Test Plan.

2. *Subcontract* means a contract, purchase order, amendment, or other legal obligation executed by a prime contractor or subcontractor calling for supplies or services required for the performance of the prime contract or subcontract. Purchases from a corporation, company, or subdivision which is owned or controlled by the reporting prime contractor are not considered "subcontracts" and shall not be included in this report.

3. *Direct Subcontract Awards* are those which are identified with the performance of a specific government contract, including allocable parts of awards for materials which are to be incorporated into products under more than one contract.

Submittal Addresses For Prime Contractors

For DOD Contractors:

All Federal prime contractors (other than small business and small disadvantaged business firms) shall distribute the original and copies as follows:

(1) The original of each report shall be sent directly to the contracting officer at the activity awarding the prime contract.

(2) Copies shall be submitted to the cognizant military Department/awarding agency:

ARMY—Director of Small and Disadvantaged Business Utilization, Office of the Secretary of the Army, Washington, DC 20310–0106

NAVY—Director of Small and Disadvantaged Business Utilization, Office of the Secretary of the Navy, Washington, DC 20360–5000

AIR FORCE—Director of Small and Disadvantaged Business Utilization, Office of the Secretary of the Air Force, Washington, DC 20330–1000

DLA—Staff Director of Small and Disadvantaged Business Utilization, HQ Defense Logistics Agency (DLA-U) Cameron Station, Alexandria, Virginia 22304–6100

For Civilian Agency Contractors:

The original of each report shall be sent directly to the contracting officer at the activity awarding the prime contract. A copy of each report shall be sent as follows:

NASA—Office of Small and Disadvantaged Business Utilization (Code K), Washington, DC 20546.

DOE—Office of Small and Disadvantaged Business Utilization, Washington, DC 20585.

[FR Doc. 90-268 Filed 1-4-90; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Lebanon County, PA

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 in Lebanon County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Philibert A. Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717) 782–4421
or
Daryl Kerns, Project Manager, Pennsylvania Department of Transportation, 21st and Herr Streets, Harrisburg, Pennsylvania 17103–1699, Telephone: (717) 783–1210.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Pennsylvania Department of Transportation (PennDOT) will prepare an Environmental Impact Statement to evaluate alternatives which provide a viable means of relieving traffic congestion on Pennsylvania Route 72 thru the City of Lebanon.

The preliminary plan was to prepare an Environmental Assessment for this project; however, as a result of public input, an EIS will be prepared.

A two-phased study approach is being used to identify and evaluate alternatives. The initial phase of this process involves scoping the project, developing the alternatives and selecting those alternatives for further detailed study. Each of the alternatives will be compared with the Do Nothing Alternative.

Prior to development of the preliminary alternatives, various types of data were gathered: census figures; land use; traffic counts and origin/destination studies; prime and productive farmland; historical and archaeological sites; water resources and quality; utilities; hydraulic information; vegetation; and geologic information; and background air pollutant levels. This information will be utilized to refine the alternatives or to eliminate a particular alternative from further consideration because of the potential for negative socioeconomic, environmental, or engineering impacts.

Six alternatives are being considered east of the city, and twelve alternatives are being considered west of the city. The east and west alternatives involve construction of a two lane, limited access relief route approximately 12 miles in length around the city. Ten alternatives are being considered that involve upating the existing roadway or rerouting traffic on existing streets in the city. A Draft Preliminary Alternatives Report has been prepared under the initial phase and will be circulated when finalized.

The second phase of the study process will consist of analyzing the alternatives selected for detailed study. These alignments will be the basis for the detailed environmental studies and Environmental Impact Statement. From this analysis a preferred alternative will be identified which best meets the needs of traffic demand, and satisifies the environmental, socioeconomic, engineering evaluations and public feedback.

A scoping meeting was held with the concerned agencies on March 3, 1987. An Environmental Assessment Plan of Study for the PA 72 Relief Route project was prepared and distributed in October, 1987. This project was also scoped at an Interagency Review Meeting held in May, 1989. To date, four public meetings have been held in conjunction with this project.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who express interest in the proposal.

(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: December 20, 1990.

George L. Hannon,

Assistant Division Administrator, Harrisburg, PA.

[FR Doc. 90-266 Filed 1-4-90; 8:45 am]

BILLING CODE 4910-22-M

[FHWA Docket No. 90-3]

National Scenic Byways Study; Request for Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation and Related Agencies Appropriation Act for Fiscal Year 1990 directs the Secretary of Transportation to submit a report on a National Scenic

Byways Program to the Congress by November 1990. The purpose of this notice is to describe the objectives of the study and the tentative approach to be followed, and to request any information and comments that should be considered in carrying out the study and/or preparing the report.

DATES: Information and comments concerning the conduct of the study must be received on or before February 15, 1990. Information and comments concerning guidelines for scenic byways programs must be received on or before July 1, 1990.

ADDRESS: Submit written, signed comments to FHWA Docket No. 90-3, Federal Highway Administration, Room 4232, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. These desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. George E. Schoener, Chief, Project Analysis Branch, (202) 366-0150; or Mr. Michael J. Laska, Office of the Chief Counsel (202) 366-0761, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: .

Study Mandate

The Department of Transportation and Related Agencies Appropriation Act, 1990, Pub. L. 101-164, 103 Stat. 1069, directs the Department of Transportation to prepare a report with the following objectives:

• Update for the use or Congress a nationwide inventory of existing scenic byways.

• Develop guidelines for the establishment of a National Scenic Byways Program, including recommended techniques for maintaining and enhancing the scenic, recreational, and historic qualities associated with each byway.

• Conduct case studies of the economic impact of scenic byways on travel and tourism.

• Analyze potential safety consequences and environmental impacts associated with scenic byway designation.

A final report on this study is to be submitted to Congress no later than November 21, 1990.

Study Approach

In conducting the study, the FHWA will consult with other Federal agencies, the States, interested private organizations, groups, and individuals. Several regional outreach meetings and a national workshop to ensure broad public input are anticipated. The FHWA will analyze the information on existing scenic byways and byways programs gathered through the consultation process and the case studies, and prepare the report to Congress addressing the study objectives.

Comments and information pertaining to the conduct of the study and addressing the four major congressionally mandated objectives should be sent to the docket established for this notice.

Issued on: January 2, 1990.

T. D. Larson,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 90-377 Filed 1-4-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[No. 89-540]

Procedures for Monitoring Bank Secrecy Act Compliance

Date: December 28, 1989.

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: The public is advised that the Office of Thrift Supervision has submitted for extension, without revision, an information collection entitled "Procedures for Monitoring Bank Secrecy Act Compliance," to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

The information collected enables the Office of Thrift Supervision to determine whether savings and loan associations are complying with the requirements set forth in section 1359 of the Anti-Drug Abuse Act of 1986. We estimate that the paperwork burden imposed by this information collection is two (2) hours per respondent.

DATES: Comments on the information collection request are welcome and should be received on or before January 16, 1990.

ADDRESS: Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Office of Thrift Supervision.

The Office of Thrift Supervision would appreciate commenters sending copies of their comments to the information contact provided below.

Request for copies of the proposed information collection requests and supporting documentation are obtainable at the Office of Thrift Supervision address given below: Director, Information Services Division, Communications Services, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, Phone: 202-416-2751.

FOR FURTHER INFORMATION CONTACT: Dawn Causey, Enforcement, (202) 906-7157, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-223 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-01-M

Columbia Federal Savings and Loan Association, Nassau Bay, TX; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole conservator for Columbia Federal Savings and Loan Association, Nassau Bay, Texas on December 21, 1989.

Dated: December 29, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-224 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-1-M

Appointment of Conservator for Silver Savings Association, FA, Silver City, NM

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for

Silver Savings Association, FA, Silver City, New Mexico ("Association") on December 21, 1989.

Dated: December 29, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-225 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-01-M

Yorkridge-Calvert Federal Savings Association, Pikesville, MD; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Yorkridge-Calvert Federal Savings Association, Pikesville, Maryland ("Association") on December 15, 1989.

Dated: December 29, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-226 Filed 1-4-90; 8-45 am]

BILLING CODE 6720-01-M

Columbia Savings Association, Nassau Bay, TX; Appointment of Receiver

Notice is hereby given that, pursuant to the authoirty contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Columbia Savings Association, Nassau Bay, TX ("Association") on December 21, 1989.

Dated: December 29, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-227 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-01-M

Replacement of Conservator with a Receiver; Concord-Liberty Federal Savings and Loan Association Monroeville, PA

Notice of hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Concord-Liberty Federal Savings and Loan Association Monroeville, Pennsylvania ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on December 14, 1989.

Dated: December 29, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-228 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver for Silver Savings and Loan Association, FA, Silver City, NM

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Silver Savings and Loan Association, FA, Silver City, New Mexico ("Association") on December 21, 1989.

Dated: December 29, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-229 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-01-M

Yorkridge-Calvert Savings and Loan Association, Pikesville, MD; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Yorkridge-Calvert Savings and Loan Association, Pikesville, Maryland ("Association") on December 15, 1989.

Dated: December 29, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-230 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-01-M

[Order No. AC-17]

Workmen's Federal Savings Bank, Mt. Airy, NC; OTS No. 1327 Revised Notice of Final Action—Approval of Conversion Application

Notice is hereby given that on November 13, 1989, the Chief Counsel, Office of the Thrift Supervision, acting pursuant to the authority delegated to him or his designee, approved the application of Workmen's Federal Savings Bank, Mt. Airy, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and District Director, Office of Thrift Supervision, Atlanta District Office, 1475 Peachtree Street, NE., Atlanta, Georgia 30309.

Dated: November 22, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-231 Filed 1-4-90; 8:45 am]

BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Grants Program for Private, Non-Profit Organizations in Support of International and Cultural Activities Involving Eastern Europe

The Office of Private Sector Programs of the United States Information Agency (USIA) announces a pilot program to grant support to U.S. non-profit organizations for projects that link their international exchange interests with counterpart institutions/groups in Eastern Europe in ways supportive of the aims of the Bureau of Educational and Cultural Affairs. Interested applicants are urged to read the complete **Federal Register** announcement prior to addressing inquiries to the Office.

General Information

The Office of Private Sector Programs of the United States Information Agency announces a program to support the international exchange objectives of the United States by stimulating and encouraging increased private sector commitment, activity, and resources through limited grants to non-profit U.S. institutions.

The Office is a networking instrument that serves to link the international exchange interests of U.S. private sector non-profit institutions with counterpart institutions and organized groups in

other countries. It gives high priority to project proposals that establish or promote linkages with American and foreign professional organizations and major cultural institutions such as museums, universities, libraries, performing arts organizations, historical preservation associations, and the like.

Projects must feature an international people-to-people component, have a professional and cultural focus, and demonstrate a substantial contribution to long-term communication and understanding between the United States and the countries of Eastern Europe.

Since programs focus on substantive issues of mutual interest, the Office recommends the coordination of exchange program activities with cultural and academic institutions noted above. The Office's projects are intellectual and cultural, not technical. Proposals falling in technical fields must have as their focus the role and function of the profession/activity within American society. Each private sector activity must maintain its nonpolitical character and shall be balanced and representative of the diversity of American political, social, and cultural life. Programs under the authority of the Bureau of Educational and Cultural Affairs shall maintain their scholarly integrity and shall meet the highest professional standards, and the participation of respected universities and/or professional associations and other major cultural institutions is encouraged.

Objectives of the Eastern European Grant Program

USIA will accord highest priority in this competition to proposals for projects that encourage the growth of democratic institutions and political and economic pluralism in Eastern Europe. Although the initiative on which this solicitation is based places a special emphasis on programs designed for audiences in Hungary and Poland, the Office is also interested in reaching constituencies in other Eastern European countries, especially the German Democratic Republic, Czechoslovakia, and Bulgaria.

The Office of Private Sector Programs is interested in supporting programs that will lay the groundwork for new international linkage between American and Eastern European professional organizations. Proposed thematic areas of interest include:

—The role of research, information, and policy analysis in legislative processes.

—The administration of local, state and federal governments. How governments at all levels provide social services in the United States, especially in the fields of labor training, employment counseling, employment exchanges, and labor programs for the handicapped and disabled.

—Law and social change, public advocacy, labor law, agrarian law, international commercial law, and laws pertaining to private investment.

—The independent judiciary system and its organization.

—The role of citizen action and volunteer organizations in American political and social process.

—The nature of the American media and freedom of the press issues. Sub-topics may include: the management of press institutions, investigative reporting, economic/business reporting, agricultural journalism, environmental journalism and international affairs journalism. Also included are programs to develop book publishing skills in fields related to the objectives of this Request for Proposals.

—The market sector of the mixed economy: how states and communities encourage private business development and investment in the United States, and professional training in banking.

—Urban planning and community development, including the role of local community organizations or civic associations therein.

—Environmental protection.

Basic Application Guidelines

The Office of Private Sector Programs offers the following guidelines to prospective grant applicants:

Programs generally range from one to six weeks; the duration of the entire grant period does not nornally exceed one year. Most funding assistance is limited to participant travel and per diem requirements with modest contributions to cover administrative costs (salaries, benefits, other direct and indirect costs) which may not exceed 20% of the total funds requested. The grantee institution may wish to share any of these expenses.

The Office of Private Sector Programs does not accept proposals for the support of performing arts tours, film festivals, independentaly-operating international competitions, exhibits, or academic arts programs. The Office does not generally award grants to support projects whose focus is purely technical, research projects, or professional training, youth or youth-related activities, or publications funding. Student and/or teacher/faculty exchanges or projects which are scholarly or academic in purpose should be directed to USIA's Office of Academic Programs. Youth or youth—related projects should be directed to USIA's Office of International Youth Exchange. Programs focusing on technical aspects of science and technology do not fall within the domain of the Office and should be referred to relevant federal agencies for consideration. Only in exceptional cases, those that forge continuing collaboration between institutions, will conferences or symposia be considered. The Office of Private Sector Programs does not encourage proposals for the partial support of conferences. The Office evaluates such proposals in the light of benefits going beyond the context of the conference itself, most importantly their potential for creating and strengthening enduring linkages between foreign and U.S. organizations, and the extent to which topics of priority interest to USIA are discussed. Conference proposals should include a detailed agenda, clearly identified speakers/presenters (and the professonal/academic credentials thereof), and a careful explanation of the role of participants form other countires in the conference. The participation of a repspected university or scholarly organiztion swould in man cases be advantageous. Further, the themes addressed in such meetings must be of long-term importance rather than focussed on current events or short-term issues. In every case, a substantial rationale for such meetings must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution the conference or sumposium will yield. Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered.

Projects supported by the Office of Private Sector programs are intended to support USIA goals aboard as well as to assist U.S. private sector organizations in their efforts to advance international understanding in areas identified as important for bilateral relations. While the Office welcomes clearly defined projects in the wide gamut of U.S. private sector fields, it gives preferential consideration to projects that involve USIS posts in the nomination of foreign participants with a view toward building ongoing institutional linkages between foreign and U.S. institutions. Applicants should be aware that proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and that pre-selected participants will also be subject to USIS post review.

The Office gives preferential consideration to proposals for activities in other countries when USIS posts are

consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

Programs may take place anywhere in the United States or Eastern Europe. Grant applicants may design programs for single-country audiences.

Proposals should display sensitivity to translation and interpretation requirements, if any.

Programs taking place in the United States should feature geographic diversity in order to expose foreign audiences to various regions of the country as well as the workings of state and local governments and business.

The Office of Private Sector Programs requires co-funding with grantees in all projects. Proposals with less than 40% cost-sharing must provide strong justification even in order to receive consideration.

Grant applications should demonstrate substantial financial and in-kind support using a three-column format which clearly displays cost-sharing support of proposed projects. Following is a sample of the required format:

Line item cost	USIA support	Cost sharing	Total
International travel			
US Air travel			
Per Diem, etc			
Total			

Grant proposals may not exceed a limit of $50,000 in the amount requested from the USIA.

Application Deadlines

In order to receive grant application materials, prospective applicants should contact the Office of Private Sector Programs at the address given below. All proposals, complete with all necessary documentation and forms, will be due by close of business February 16, 1990. Incomplete proposals will not be reviewed.

The Office of Private Sector Programs must office must receive complete proposals at least four months in advance of the activity date. The purpose of establishing this time frame is two-fold: First, the Office's Congressional mandate is best served when U.S. private sector organizations work with and through the U.S. Information Service (USIS) posts in other countries in carrying out projects with a long view toward ongoing institutional linkages between foreign and U.S. professional institutions. Projects can serve those ends only when USIS officers have reasonable time and opportunity to make contacts and lay the groundwork necessary for successful programming. Second, the review process for proposals submitted to USIA is multilayered and time-consuming. The four-month minimum time-frame stipulated between the receipt of proposals to the date of the proposed activity is just barely sufficient to make a project work for the benefit of all concerned.

The grant activity must take place during calendar year 1990. Proposals must be in accordance with Project Proposal Information Requirements (OMB #31180175).

For additional information and planning assistance relating to this grant award for Eastern European projects, prospective applicants should contact: Ms. Madeline Feldman, Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street, SW., Washington, DC 20547. Or call: 202/485-7326.

Dated: December 12, 1989.

Stephen J. Schwartz,

Director, Office of Private Sector Programs.

[FR Doc. 90-237 Filed 1-4-90; 8:45 am]

BILLING CODE 8230-01-M

Book Promotion Division; Limited Grant Support

The Book Promotion Branch of the U.S. Information Agency will provide limited grant support to non-profit U.S. institutions and organizations in the private sector to administer donated books projects during FY'90. All interested organizations which wish to compete for grants to administer one or several of the following projects are invited to request detailed proposal guidelines by January 18, 1990 and to submit detailed proposals by February 13, 1990. The proposals will be evaluated by a review panel and recommendations for grant awards will be based on professional staff assessment of relevant qualifications and compliance with established criteria.

Regional Projects

Africa

A grant, not to exceed $75,000, will be awarded to a non-profit organization to help defray costs for distributing appropriate donated books to several countries in Sub-Saharan Africa designated by the Agency. A minimum of 375,000 books (new and used), and in subject areas requested by each country, must be distributed with funds from this grant. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, educational system, science and technology, foreign policy, and TEFL and English Teaching. The books will be distributed to students and teachers in secondary schools, universities, research centers and institutes. The grantee organization, prior to the shipment of any books, must identify a consignee in each recipient country who will be responsible for handling in-country processing and distribution. To ensure books selected for shipment comply with requests of each recipient country, the grantee organization must send annotated book lists in advance, including number of titles available in different instructional levels, to the recipient institution(s) and to USIA for approval.

American Republics

A grant, not to exceed $35,000, will be awarded to a non-profit organization to help defray costs for distributing appropriate donated books to several countries in the Caribbean and/or other countries designated by the Agency in the American Republics. A minimum of 175,000 books in Spanish and English (both new and used), and in subject areas requested by each country, must be distributed with funds from this grant. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, educational system, science and technology, foreign policy, and TEFL and English Teaching. The books will be distributed to students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the grantee organization must identify a consignee in each recipient country who will be responsible for handling in-country processing and distribution. To ensure books selected for shipment comply with requests of each recipient country, the grantee organization must send annotated book lists in advance, including number of titles available in different instructional levels, to the recipient institution(s) and to USIA for approval.

East Asia

A grant, not to exceed $75,000, will be awarded to help defray costs for distributing appropriate donated books

to the People's Republic of China, the Philippines and other countries designated by the Agency. A minimum of 375,000 books (new and used), and in subject areas requested by each country, must be distributed with funds from this grant. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, educational system, science and technology, foreign policy, and TEFL and English Teaching. The books will be distributed to students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the grantee organization must identify a consignee who will be responsible for handling in-country processing and distribution. To ensure books selected for shipment comply with requests of each recipient country, the grantee organization must send annotated book lists in advance, including number of titles available in different instructional levels, to the recipient institution(s) and to USIA for approval.

Eastern Europe

A grant, not to exceed $75,000, will be awarded to help defray costs for distributing appropriate donated books to Poland, Hungary, Czechoslovakia, East Germany, and/or other countries in Eastern Europe that are designated by the Agency. A minimum of 375,000 books, and in subject areas requested by each country, must be distributed with funds from this grant. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, educational system, foreign policy, and TEFL and English Teaching. The books will be distributed to students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the grantee organization must identify a consignee who will be responsible for handling in-country processing and distribution. To ensure books selected for shipment comply with requests of each recipient country, the grantee organization must send annotated book lists in advance, including number of titles available in different instructional levels, to the recipient institution(s) and to USIA for approval.

Eligibility

To be eligible for consideration an organization must be incorporated in the U.S. as a 501(c)(3), not-for-profit organization as determined by the IRS, and be able to demonstrate expertise in administering the project(s) on which it is bidding. An organization may apply for grants to administer more than one regional project.

How to Apply

If you are interested in competing for one or more of the grants listed above, please notify Mr. Williams Holmes, Chief, Book Promotion Branch (E/CBP), United States Information Agency, 301 4th Street, SW., Washington, DC 20547. Telephone (202) 485–2899. The deadline for notification if January 18, 1990. A copy of the grant proposal guidelines will be forwarded to interested parties upon request.

Dated: December 27, 1989.

Philip W. Pillsbury,

Direct, E/C.

[FR Doc. 90–238 Filed 1–4–90; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 4
Friday, January 5, 1990

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).

NATIONAL CREDIT UNION ADMINISTRATION

Meetings

TIME AND DATE: 9:30 a.m., Thursday, January 11, 1990.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Federal Credit Union Loan Interest Rate Ceiling.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insurance Fund Report.
5. Final Amendments: §§ 700.1, 701.32, 705.3 and 741.5, Designation of Low Income Status, NCUA's Rules and Regulations.
6. Proposed Amendments: §§ 701.22 and 701.23, Loan Participation and Purchase, Sale and Pledge of eligible Obligations, NCUA's Rules and Regulations.
7. Final Amendments: §§ 701.6 and 741.9, Fee for Late Payment of Operating Fee, Capitalization Deposit Adjustment, and Insurance Premium, NCUA's Rules and Regulations.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, January 11, 1990.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. NCUA Fraud Hotline. Closed pursuant to exemption (8).
3. Administrative Action under section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
4. Administrative Action under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 90-393 Filed 1-3-90; 2:01pm]

BILLING CODE 7535-01-M

Corrections

Federal Register
Vol. 55, No. 4
Friday, January 5, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP90-366-000, et al.]

K N Energy, Inc., et al.; Natural Gas Certificate Filings

Correction

In notice document 89-29933 beginning on page 53175, in the issue of Wednesday, December 27, 1989, make the following correction:

On page 53176, in the second column, in the third line, the comment date reading "January 15, 1990" should read "January 5, 1990".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 88N-0389]

Medical Devices; Hearing Aid Devices; Technical Data Amendments

Correction

In rule document 89-29666 beginning on page 52395 in the issue of Thursday, December 21, 1989, make the following correction:

On page 52395, in the third column, in the first complete paragraph, in the fourth line, insert the word "not" between the words "is" and "a".

BILLING CODE 1505-01-D

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

RIN 3124-AA10

Practices and Procedures

Correction

In rule document 89-30254 beginning on page 53500 in the issue of Friday, December 29, 1989, make the following corrections:

§ 1201.26 [Corrected]

1. On page 53507, in the second column, in § 1201.26(c), in the first line, remove "8½".

Appendix I to Part 1201—[Corrected]

2. On page 53522, in the 3rd column, in Appendix I, in the 1st complete paragraph, in the 12th line, "may" should read "must".

3. On page 53523, in the first column, in the third line, "you" should read "your".

4. On the same page, in the second column, in entry 19, the third line should read "*year) (attach a copy)*".

Appendix II to Part 1201—[Corrected]

5. On page 53524, in the third column, in entry 8, in the third line, after the phone number add "(Iowa,".

BILLING CODE 1505-01-D

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Increase in Level of Permissible Imports of Certain Articles From the European Community

Correction

In the issue of Tuesday, December 26, 1989, on page 53035 in the third column, a correction to FR Doc. 89-29149 appeared. In the third column, in the last line, "26,195,450" should read "26,159,450".

BILLING CODE 1505-01-D

federal register

Friday
January 5, 1990

Part II

Department of Labor

Employment and Training Administration

20 CFR Part 625

Disaster Unemployment Assistance Program; Interim Final Rule and Request for Comments

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR PART 625

RIN 1205-AA50

Disaster Unemployment Assistance Program; Interim Final Rule and Request for Comments

AGENCY: Employment and Training Administration, Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: The Employment and Training Administration of the Department of Labor is issuing this interim final rule implementing the statutory amendments affecting the Disaster Unemployment Assistance Program. These amendments made significant changes in the statute governing the program of unemployment assistance to people unemployed because of a major disaster. Essential changes to the regulations are issued in this interim final rule because the statutory changes in the program became effective on November 23, 1988. To provide an opportunity for public participation in this rulemaking, a comment period is provided, and a final rule will be published after taking into account any comments that are received.

DATES: *Effective date:* The effective date of this interim final rule is January 5, 1990.

Comment date: Written comments on this interim final rule must be received in the Department of Labor on or before February 5, 1990.

ADDRESS: Written comments on this interim final rule may be mailed or delivered to Mary Ann Wyrsch, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S4231, 200 Constitution Avenue NW., Washington, DC 20210.

All comments received will be available for public inspection during normal business hours in Room S4231 at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Ann Farmer, Director, Office of Program Management in the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210: Telephone (202) 535-0610 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 407 of the Disaster Relief Act of 1974 (hereafter the DRA) set forth the amended outlines of the Disaster Unemployment Assistance Program (hereafter the "DUA Program"). The President was authorized by section 407 to provide to any individual unemployed as a result of a major disaster declared by the President under the Act "such benefit assistance as he deems appropriate while such individual is unemployed." Other terms of section 407 provided that disaster unemployment assistance (hereafter "DUA") was to be furnished to individuals for no longer than one year after the major disaster was declared; and for any week of unemployment a DUA payment was not to exceed the maximum weekly benefit amount authorized under the unemployment compensation law of the State in which the disaster occurred; and any DUA payment was to be reduced by the amount of any unemployment compensation or private income protection insurance compensation available to the individual for the same week of unemployment. The President was directed by section 407 to provide DUA through agreements with States which, in his judgment, had an adequate system for administering the DUA Program through existing State agencies.

Pursuant to a delegation of authority to the Secretary of Labor, United States Department of Labor, initially from the Secretary of Housing and Urban Development, and subsequently from the Director of the Federal Emergency Management Agency (FEMA), the DUA Program authorized by section 407 of the DRA was implemented in regulations promulgated by the Department of Labor and published at part 625 of title 20 of the Code of Federal Regulations (20 CFR part 625).

Title I of Public Law 100-707, approved on November 23, 1988, is cited as *The Disaster Relief and Emergency Assistance Amendments of 1988* (hereafter the "DREA"). In Title I extensive amendments were made to the Disaster Relief Act of 1974. The short title of the Act was changed to *The Robert T. Stafford Disaster Relief and Emergency Assistance Act* (hereafter the "Stafford Act"); section 407 was redesignated as section 410; significant changes were made in redesignated section 410; and other changes and provisions were made affecting the DUA Program.

Section 113 of Pub. L. 100-707 directs that regulations implementing the amended Stafford Act shall be issued no later than the 180th day after date of enactment (that is, November 23, 1988). Section 112 of Pub. L. 100-707 provides that the amendments in Title I "shall not affect the administration of any assistance for a major disaster * * * declared by the President before the date of the enactment of this Act."

In view of the application of the amended Stafford Act to major disasters declared on and after November 23, 1988, and the statutory direction to issue regulations not later than the 180th day after November 23, 1988, it is necessary to issue with this document an interim final rule amending 20 CFR part 625, to become effective upon publication in the **Federal Register** and with a comment period following such publication.

Since the amendments to section 410 took effect on November 23, 1988, and major disaster declarations were issued by the President soon after enactment, and it has been necessary to apply the amendments to section 410 to such disasters, the Department has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for publishing the amendments to 20 CFR part 625 as an interim final rule, with a post-publication comment period, because a pre-publication comment period is impracticable and contrary to the public interest. For the same reasons the Department has determined, pursuant to 5 U.S.C. 553(d), that good cause exists for making the amendments to 20 CFR part 625 effective upon publication in the **Federal Register.**

Further, in order to effectuate the amendments to the DUA Program in a timely fashion, pending the publication of the interim final rule in this document the Department has issued Unemployment Insurance Program Letter No. (hereafter "UIPL") 16-89 to the States, and has entered into modified agreements with the States to implement the amendments. UIPL 16-89 sets forth operating instructions to the States for implementing the amended DUA Program, and was published in the **Federal Reqister** on March 24, 1989, at 54 FR 12295. Change 1 to UIPL 16-89, containing further operating instructions, was published in the **Federal Register.** on June 23, 1989, at 54 FR 26448.

The provisions of section 410 of the Stafford Act supersede the prior statute and regulations for the DUA Program, to the extent that the provisions of the Stafford Act are inconsistent with the prior statute and regulations. Therefore, the provisions of the Stafford Act must be given effect as of their effective date, as is required by section 112 of the Stafford Act. In no case may any determination of entitlement to DUA Program benefits that are affected by the Stafford Act be based upon the prior statute or the regulations implementing

the prior statute. However, the administration of the DUA Program with respect to any major disaster declared by the President prior to November 23, 1988, shall continue to be controlled by the regulations at 20 CFR part 625 that were in effect prior to the publication of the interim final rule in this document.

The significant DREA amendments to the Stafford Act affecting the DUA Program are:

Section 106(f)(1) of the DREA amends section 410(a) of the Stafford Act to provide that DUA is payable to an individual for a week of unemployment only if "the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit."

Section 106(f)(2) of the DREA amends section 410(a) of the Stafford Act to provide that Disaster Unemployment Assistance cannot be paid for any period longer than "26 weeks after the major disaster is declared."

Section 106(f)(3) of the DREA amends section 410(a) of the Stafford Act by repealing the provision that the DUA amount calculated and payable to an individual for a week of unemployment "shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment."

Section 106(f)(4) of the DREA amends section 410(b) of the Stafford Act to provide under subsection (b)(1) that "[a] State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section." Subsection (b)(2) provides that "[t]he President may provide [Federal] reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services."

Section 106(1) of the DREA amends Title IV of the Stafford Act by adding a new section, section 423. This section provides a right of appeal from any decision regarding "eligibility for, from, or amount of assistance" under Title IV, within 60 days after the date on which the applicant is notified of the award or denial of assistance. Subsection (b) of this new section requires that a decision regarding such an appeal will be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of the appeal. Subsection (c) of this new section requires the President to issue rules which provide for the fair and impartial consideration of these appeals.

Section 103(d) of the DREA amends paragraphs 3 and 4 of Section 102 of the Stafford Act to delete "the Canal Zone" from the definitions of "United States" and "State".

In addition, since publication of 20 CFR part 625 in 1977, several amendments (discussed below) have been made to Title III of the Social Security Act (hereafter "SSA") (42 U.S.C. 501 *et seq.*) and the Federal Unemployment Tax Act (hereafter "FUTA") (26 U.S.C. 3301 *et seq.*). These amendments relate to requirements that each State unemployment compensation law must contain in order for covered employers within the State to receive credits against the Federal unemployment tax imposed under Section 3301, FUTA, and for the certification of payment of granted funds to the State under Title III of the SSA. This necessitates amending part 625 to reflect the current statutes.

Other changes and technical corrections are made throughout part 625 to update the regulations and to conform the words and phrases to changes made in the Stafford Act. Appendices are added to include the Secretary of Labor's standards on claim filing, claim determinations, and fraud and overpayment detection.

Changes in the Regulations Due to the Stafford Act

The following changes in the regulations are required by the amendments in the Stafford Act:

The DRA was renamed "The Robert T. Stafford Disaster Relief and Emergency Assistance Act" by Section 102(a) of the DREA. Conforming changes have been made, where required, throughout the regulations.

Section 106(e) of the DREA redesignated Section 407 of the Stafford Act, which establishes the DUA Program, as section 410. Therefore, paragraphs (a), (b) and (c) of § 625.1, which set forth the purpose of the Stafford Act and rules of construction, are revised to reflect the new citations as well as the new title of the Act. Paragraphs (a), (b) and (c) are also revised to reflect the citation of new section 423 of the Act as discussed in the next paragraph below.

The definition of "Act" in § 625.2 has been revised to incorporate the revised citation to section 410 and to add section 423 to this definition since that section, which makes provision for appeals of assistance decisions, including those under the DUA Program, was added to the Stafford Act by section 106(1) of the DREA.

The definition of "Disaster Assistance Period" under § 625.2(f) is revised to reflect the amendment to section 410(a) of the Stafford Act by section 106(f)(2) of the DREA. Under the amended section 410(a), disaster unemployment assistance may not be paid for any period longer than "26 weeks after the major disaster is declared." In addition, this definition is revised to remove authority to prescribe a shorter DUA period. The definition of a "Week" under § 625.2(v) remains unchanged.

Section 625.2(h) defining "Federal Coordinating Officer" is revised to reflect the new name of the Stafford Act.

Paragraph (k) of § 625.2 defining "Major disaster" is revised to reflect the new name of the Stafford Act and the statutory citation.

Sections 625.2(p), (q), and (r) are modified by deleting the Canal Zone as a "State" for purposes of the DUA Program. This definition follows the definition of "State" in the Stafford Act as amended by section 103(d) of the DREA. Also the references to the Canal Zone are deleted from §§ 625.6 and 625.12.

Section 625.3 is expanded to indicate that a State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving DUA. For "States" that do not offer any reemployment services, the Department of Labor, in consultation with the Federal Emergency Management Agency, will determine what services or programs are needed, and if any available Federal programs of reemployment services can be implemented in that jurisdiction.

Section 625.4 is modified by adding a paragraph (i) to provide that an individual shall not be eligible for DUA for any week the individual is eligible to receive any other unemployment compensation or is eligible for a waiting period credit for such week under any other unemployment compensation program. Also, § 625.13(a) is modified to delete the provision that unemployment compensation is deductible from weekly DUA payable. The term "unemployment compensation" is as it is defined in section 85(b) of the Internal Revenue Code of 1986 and further defined in § 625.2(d) of this part.

These changes mean that DUA is not payable for any week the individual is eligible for a payment of unemployment compensation or waiting period credit, or is ineligible because the individual (1) has excessive disqualifying income, (2)

is employed or is not able to work or available for work, or (3) for any other reason is ineligible for unemployment compensation or waiting period credit but otherwise would be entitled but for such ineligible reason with two exceptions. DUA can be paid (1) when an individual is under disqualification for unemployment compensation for a cause that occurred before the individual's disaster related separation from employment, even though the individual has not purged the disqualification, and (2) when there is a disqualification or denial of unemployment compensation because of the individual's disaster related reason for separation and/or the individual does not meet the eligibility requirements for unemployment compensation because of becoming unemployed due to the disaster.

Also, this change in § 625.4 does not affect § 625.5(a), which defines five categories of unemployed workers whose unemployment is caused by a disaster, including the one in which the individual cannot work because of an injury caused as a direct result of the major disaster. Such workers may not meet the eligibility requirements for unemployment insurance but would meet them for DUA.

Section 625.10 is changed significantly. The period for filing an appeal from a determination or redetermination is changed from the amount of time permitted by the applicable State unemployment compensation law to 60 days. The fair and impartial hearing and decision will continue to be administered by State unemployment compensation hearing officers except in Guam, American Samoa, and the Trust Territory of the Pacific Islands. However, it will be necessary for *all* DUA appeals to be decided by State hearing officers within 30 days of receipt of the appeal. The applicant will be allowed to appeal the State hearing officer's decision to the appropriate Regional Administrator within 15 days after the hearing officer's decision is delivered or mailed to the individual. The Regional Administrator will have 45 days to obtain the record from the State and to issue a decision on the appeal, but the decision by the Regional Administrator must in every case be issued within 90 days after the day on which the applicant's original appeal was received by the State agency, as is required by section 423(b) of the Stafford Act.

The savings clause at § 625.20 is revised to replace the date October 16, 1977 with the date November 23, 1988, the effective date of the DREA amendments. Any DUA Program operations for a major disaster declared prior to that date are subject to the DRA and regulations in effect prior to that date.

Changes in the Regulations Due to Other Factors

The following changes in the regulations are required due to amendments to the SSA and FUTA, deletion of obsolete references and citations, and other technical corrections.

The definition of "compensation" contained in § 625.2(d) is revised to delete references to types of "compensation" no longer in existence because the authorizing statute expired or was repealed by the State. These references are "Emergency compensation," "Special Unemployment Assistance," and the "Hawaii Agricultural Unemployment Compensation Law." The definition is also revised to incorporate the definition of "unemployment compensation" as that term is defined in section 85(b) of the Internal Revenue Code of 1986. As defined in Section 85(b), the term "* * * means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation." Under the cited provision of the Internal Revenue Code, the Internal Revenue Service (IRS) has the responsibility for implementing the provision, which they have defined in their regulations at 26 CFR 1.85–1. The Department is following the provisions of the IRS regulations in this definition as directed by section 410(a) of the Stafford Act.

"Compensation", as defined, includes a definition of "Federal supplementary compensation" in addition to other types of payments previously defined. Also, in § 625.2(d)(5) a definition is added for "disability payments" which are considered "in the nature of unemployment compensation" by the IRS in their regulations at 26 CFR 1.85–1(b)(1)(ii).

This definition at § 625.2(d)(5) provides that "disability payments" made pursuant to a governmental program as a substitute for cash unemployment benefits to an individual who is ineligible for unemployment benefits solely because of the disability or sickness are "in the nature of unemployment compensation". Usually these disability or sickness payments are paid in the same weekly amount and for the same period as the unemployment benefits to which the unemployed worker would have been entitled based on prior employment and wages. Therefore DUA is not payable to individuals entitled to "disability payments".

The definition applies to certain types of temporary disability or sickness payments where State laws provide for such payments and to sickness payments made under the Railroad Unemployment Insurance Act (45 U.S.C. 352). Such payments are considered "in the nature of unemployment compensation" unless the State has a ruling from the IRS that the payments are not "unemployment compensation". In addition, the IRS regulation at 26 CFR 1.85–1(b)(1)(ii) provides that amounts received under workmen's compensation acts as compensation for personal injuries or sickness are not amounts "in the nature of unemployment compensation".

The IRS regulation (26 CFR 1.85–1(b)(1)(iii)) also provides that if a governmental unemployment compensation program is funded in part by an employee's contribution, which is not deductible by the employee from Federal income tax liability, an amount paid to such employee is not considered unemployment compensation until an amount equal to the total nondeductible contributions paid by the employee to such program has been paid to the employee. Therefore, unless States have a ruling from the IRS that such employee contributions and related payments are not "unemployment compensation" or other specific provisions of law that would exclude the employee contributions from the definition, those States that require such contributions must consider any payments made as being "unemployment compensation", hence, an individual is not eligible for payments of DUA. This provision is applicable to those States that require employee contributions for "regular compensation" and/or "disability payments". § 625.2(d), as revised, includes this provision.

Conversely, for those types of payments not defined as "unemployment compensation", in order to prevent duplication of benefits under section 312 of the Stafford Act, § 625.13(a)(1), as renumbered, is revised to reflect that DUA must be reduced by any benefit or insurance proceed from any source not defined as "compensation" under § 625.2(d) for loss of wages due to illness or disability. Also, this means workman's compensation payments, any State "disability payments" not considered "compensation", any employee contributed unemployment compensation payments not considered "compensation" or any private plan payments must be deducted from DUA

payable if the individual is otherwise eligible.

Section 625.2(e), definition of "Date the major disaster began", is revised to reflect the current responsible Federal agency for coordinating disaster relief activities, namely, the Federal Emergency Management Agency.

Section 625.2(1), which defines "Major disaster area", is revised to reflect, as discussed above, the Federal Emergency Management Agency.

The separate definition of "State law" for the Virgin Islands that is provided in § 625.2(r)(1)(ii) is removed as the Virgin Islands are now included in the "State law" provisions of § 625.2(r)(1)(i), which reflects the Virgin Islands status as a "State" under FUTA section 3306(j).

Although not required by the changes in the Stafford Act, §§ 625.5(a)(1) and (b)(1) are clarified to conform with the definition of the term "week of unemployment", so that individuals who become partially unemployed as a result of a disaster will be eligible for DUA benefits. These clarifying changes are consistent with and reflect the interpretation given to the present regulations.

Section 625.8(f) is revised to reflect that the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" is now provided as Appendix A of this part.

Section 625.9(f) is revised to reflect that the Secretary's "Standard for Claim Determinations—Separation Information" is now provided as Appendix B of this Part.

A new § 625.30 is added to provide appeal procedures for Guam, American Samoa, and the Trust Territory of the Pacific Islands. In the current regulations, these procedures are set forth in § 625.10(b) and (c), which incorporate by reference certain appeal procedures of the Unemployment Compensation for Federal Employees Program at §§ 609.34 through 609.45 of this chapter. Those sections are no longer in existence; therefore, the text of §§ 609.34 through 609.45 has been adapted and incorporated into a new § 625.30. These adapted procedures provide for filing of appeals to a referee, conduct of a fair and impartial hearing, providing notice of decision, representation, and other matters related to an administrative appeal proceeding.

Other changes have been made throughout § 625.10 to correct titles of individuals and to improve clarity of the provisions.

Section 625.10(e) is revised to provide that the Secretary's appeals promptness standard no longer applies to DUA appeals because all decisions must be issued within 30 days of receipt of the appeal by the State agency in order to allow a Federal official to issue a decision within 90 days of receipt of the appeal.

Sections 625.14(b)(1) and (2) are revised to remove the references to the overpayment recovery limitations of the Special Unemployment Assistance Program, which is no longer in existence. In addition, a paragraph (b)(3) is added to require cross-program (State program and Federal programs) offset if a State has an agreement with the Secretary of Labor under section 303(g)(2) of the SSA. This would require a DUA overpayment to be offset against payments of State unemployment compensation.

Section 625.14(h) is revised to reflect that the Secretary's "Standard for Fraud and Overpayment Detection" is now provided as Appendix C of this part.

Drafting Information

This document was prepared under the direction and control of the Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210: Telephone (202) 523-7831 (this is not a toll-free number).

Classification—Executive Order 12291

The interim final rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. Ch 35, approval has been obtained from the Office of Management and Budget (OMB) for the recordkeeping and reporting requirements under § 625.16(a) for the DUA forms ETA 90-2, 81, 81A, 82, and 84. The OMB control number for the 90-2 is 1205-0234 and for the 81, 81A, 82, 83 and 84 it is 1205-0051. OMB approval has also been obtained for the recordkeeping and reporting required under § 625.19(b) under OMB control number 1205-0051.

Regulatory Flexibility Act

No regulatory flexibility analysis is required where the rule "will not * * * have a significant economic impact on a substantial number of small entities" (5 U.S.C. 605(b)). The definition of the term "small entity" under 5 U.S.C. 601(6) does not include States. Since these regulations involve an entitlement program administered by the States, and are directed to the States, no regulatory flexibility analysis is required. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at No. 17.225, "Disaster Unemployment Assistance (DUA)."

Lists of Subjects in 20 CFR Part 625

Disaster Unemployment Assistance, Labor, reemployment services, unemployment compensation.

Words of Issuance

For reasons set out in the preamble, part 625 of title 20, Code of Federal Regulations, is amended as set forth below.

Signed at Washington, DC, on December 15, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

PART 625—DISASTER UNEMPLOYMENT ASSISTANCE

1. The authority for part 625 is revised to read as follows:

Authority: 42 U.S.C. 1302; 42 U.S.C. 5164; 42 U.S.C. 5189a(c); 42 U.S.C. 5201(a); Executive Order 12673 of March 23, 1989 (54 FR 12571); delegation of authority from the Director of the Federal Emergency Management Agency to the Secretary of Labor, effective December 1, 1985 (51 FR 4988); Secretary's Order No. 4-75 (40 FR 18515).

2. The Table of Contents for part 625 is amended by adding at the end thereof entries for new § 625.30 and Appendix A, Appendix B and Appendix C to read as follows:

Sec.

* * * * *

625.30 Appeal Procedures for Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Appendix A to Part 625—Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services

Appendix B to Part 625—Standard for Claim Determinations—Separation Information

Appendix C to Part 625—Standard for Fraud and Overpayment Detection

3. Paragraphs (a), (b) and (c) of § 625.1 are revised to read as follows:

§ 625.1 Purpose; rules of construction.

(a) *Purpose.* Section 410 of "The Robert T. Stafford Disaster Relief and Emergency Assistance Act" amended the program for the payment of unemployment assistance to unemployed individuals whose unemployment is caused by a major disaster, and to provide reemployment assistance services to those individuals. The unemployment assistance provided for in section 410 of the Act is hereinafter referred to as Disaster Unemployment Assistance, or DUA. The regulations in this part are issued to implement sections 410 and 423 of the Act.

(b) *First rule of construction.* Sections 410 and 423 of the Act and the implementing regulations in this part shall be construed liberally so as to carry out the purposes of the Act.

(c) *Second rule of construction.* Sections 410 and 423 of the Act and the implementing regulations in this part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

* * * * *

4–5. Section 625.2 is amended by revising paragraphs (a), (e), (f), (h), (k), (l), (p), (q) and (r)(1) and by redesignating paragraph (d)(1) as the introductory text of paragraph (d) and redesignating paragraphs (d)(2) through (d)(6) as (d)(1) through (d)(5) and revising newly redesignated introductory text to paragraph (d) and paragraphs (d)(4) and (d)(5) to read as follows:

§ 625.2 Definitions.

* * * * *

(a) "Act" means sections 410 and 423 of *The Robert T. Stafford Disaster Relief and Emergency Assistance Act* (formerly section 407 of the "Disaster Relief Act of 1974", Pub. L. 93–288, 88 Stat. 143, 156, approved May 22, 1974), 42 U.S.C. 5177, 5189a, as amended by The Disaster Relief and Emergency Assistance Amendments of 1988, Pub. L. 100–707, 102 Stat. 4689, 4704, 4705, approved November 23, 1988.

* * * * *

(d) "Compensation" means unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, and shall include any assistance or allowance payable to an individual with respect to such individual's unemployment under any State law or Federal unemployment compensation law unless such governmental unemployment compensation program payments are not considered "compensation" by ruling of the Internal Revenue Service or specific provision of Federal and/or State law because such payments are based on employee contributions which are not deductible from Federal income tax liability until the total nondeductible contributions paid by the employee to such program has been paid or are not "compensation" as defined under paragraph (d)(5) of this section. Governmental unemployment compensation programs include (but are not limited to) programs established under: a State law approved by the Secretary of Labor pursuant to section 3304 of the Internal Revenue Code, chapter 85 of title 5 of the United States Code, the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*), any Federal supplementary compensation law, and trade readjustment allowances payable under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 *et seq.*). "Compensation" also includes "regular compensation", "additional compensation", "extended compensation", "Federal supplementary compensation", and "disability payments" defined as follows:

* * * * *

(4) "Federal supplementary compensation" means supplemental compensation payable under a temporary Federal law after exhaustion of regular and extended compensation.

(5) "Disability payments" means cash disability payments made pursuant to a governmental program as a substitute for cash unemployment payments to an individual who is ineligible for such payments solely because of the disability, except for payments made under workmen's compensation acts for personal injuries or sickness.

(e) "Date the major disaster began" means the date a major disaster first occurred, as specified in the understanding between the Federal Emergency Management Agency and the Governor of the State in which the major disaster occurred.

(f) "Disaster Assistance Period" means the period beginning with the first week following the date the major disaster began, and ending with [the 26th week subsequent to the date the major disaster was declared.

* * * * *

(h) "Federal Coordinating Officer" means the official appointed pursuant to section 302 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, to operate in the affected major disaster area.

* * * * *

(k) "Major disaster" means a major disaster as declared by the President pursuant to section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(l) "Major disaster area" means the area identified as eligible for Federal assistance by the Federal Emergency Management Agency, pursuant to a Presidential declaration of a major disaster.

* * * * *

(p) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(q) "State agency" means——

(1) In all States except the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency administering the State law; and

(2) In the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency designated in the Agreement entered into by the State.

(r)(1) "State law" means, with respect to——

(i) The States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, the unemployment compensation law of the State which has been approved under section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)); and

(ii) The Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the Hawaii Employment Security Law.

* * * * *

6. Section 625.3 is revised to read as follows:

§ 625.3 Reemployment assistance.

(a) *State assistance.* Except as provided in paragraph (b) of this section, the applicable State shall provide, without reimbursement from any funds provided under the Act, reemployment assistance services under any other law administered by the State to individuals applying for DUA and all other individuals who are unemployed because of a major disaster. Such services shall include, but are not limited to, counseling, referrals to suitable work opportunities, and suitable training, to assist the individuals in obtaining reemployment in suitable positions as soon as possible.

(b) *Federal assistance.* In the case of American Samoa and the Trust Territory of the Pacific Islands, the Department of Labor, in consultation with the Federal Emergency Management Agency, will determine what reemployment services are needed by DUA applicants, and if any available Federal programs of reemployment assistance services can be implemented in that jurisdiction.

7. Section 625.4 is amended by removing the word "and" at the end of paragraph (g) removing the period at the end of paragraph (h) and inserting in lieu thereof"; and", and by adding a new paragraph (i) to read as follows:

§ 625.4 Eligibility requirements for Disaster Unemployment Assistance.

* * * * *

(i) The individual is not eligible for compensation (as defined in § 625.2(d)) or for waiting period credit for such week under any other Federal or State law, except that an individual determined ineligible because of the receipt of disqualifying income shall be considered eligible for such compensation or waiting period credit. An individual shall be considered ineligible for compensation or waiting period credit (and thus potentially eligible for DUA) if the individual is under a disqualification for a cause that occurred prior to the individual's unemployment due to the disaster, or for any other reason is ineligible for compensation or waiting period credit as a direct result of the major disaster.

8. Paragraphs (a)(l) and (b)(l) of § 625.5 are revised to read as follows:

§ 625.5 Unemployment caused by a major disaster.

(a) *Unemployed worker.* * * *

(1) The individual has a "week of unemployment" as defined in § 625.2(w)(1) during the week immediately following the "date the major disaster began" as defined in § 625.2(e), and such unemployment is a direct result of the major disaster; or

* * * * *

(b) *Unemployed self-employed individual.* * * *

(1) The individual has a "week of unemployment" as defined in § 625.2(w)(2) during the week immediately following the "date the major disaster began" as defined in § 625.2(e), and such unemployment is a direct result of the major disaster; or

* * * * *

9. Section 625.6 is amended by revising paragraphs (a)(1) and (a)(4), (b) and (c) to read as follows:

§ 625.6 Disaster Unemployment Assistance: Weekly amount.

(a) *States of the United States.* (1) In all States except the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the weekly amount of compensation the individual would have been paid as regular compensation, as computed under the provisions of the applicable State law for a week of total unemployment, but in no event shall such amount be in excess of the maximum amount of regular compensation authorized under the applicable State law for that week: Provided, that, except as provided in paragraph (a)(2) and Paragraph (a)(3) of this section, in computing an individual's weekly amount of DUA, the base period, qualifying employment and wage requirements, and benefit formula of the applicable State law shall be applied; and for the purpose of this section employment, wages, and self-employment which are not covered by the applicable State law shall be treated in the same manner and with the same effect as covered employment and wages, but shall not include employment or self employment, or wages earned or paid for employment or self-employment, which is contrary to or prohibited by any Federal law.

* * * * *

(4) If under paragraph (a)(1) or paragraph (a)(3) of this section it is not possible to compute the weekly amount for an unemployed self-employed individual because such individual has no net earnings from services performed in self-employment, the weekly amount payable to such individual shall be the minimum weekly amount of regular compensation payable under the applicable State law.

* * * * *

(b) *Guam.* In the Territory of Guam the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the average of the payments of regular compensation made under all State laws referred to in § 625.2(r)(1)(i) for weeks of total unemployment in the first four of the last five completed calendar quarters immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(c) *American Samoa and the Trust Territory of the Pacific Islands.* In American Samoa and the Trust Territory of the Pacific Islands the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the amount agreed upon by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the Federal Coordinating Officer, which shall approximate 50 percent of the area-wide average of the weekly wages paid to individuals in the major disaster area in the quarter immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

* * * * *

10. Section 625.8(f)(1) is revised to read as follows:

§ 625.8 Applications for Disaster Unemployment Assistance.

* * * * *

(f) *Procedural requirements.* (l) The procedures for reporting and filing applications for DUA shall be consistent with this part, and with the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services," *Employment Security Manual.* Part V, sections 5000 *et seq.* (Appendix A of this part), insofar as such standard is not inconsistent with this part.

* * * * *

11. Section 625.9(f) is revised to read as follows:

§ 625.9 Determinations of entitlement; notices to individual.

* * * * *

(f) *Secretary's Standard.* The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals applying for DUA, shall be consistent with this part and with the Secretary's "Standard for Claim Determinations—Separation Information," *Employment Security Manual.* Part V, sections 6010 *et seq.* (Appendix B of this part).

* * * * *

12. In § 625.10, paragraph (b) is removed, paragraphs (c), (d), (e), and (f) are redesignated paragraphs (b), (c), (d), and (e), and paragraph (a) and newly redesignated paragraphs (b)(1), (c)(1), (c)(3) through (c)(5), (d)(1), (d)(2), (d)(4), (d)(6), and (e)(1) are revised to read as follows:

§ 625.10 Appeal and review.

(a) *States of the United States.* (1) Any determination or redetermination made

pursuant to § 625.9, by the State agency of a State (other than the State agency of the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands) may be appealed by the applicant in accordance with the applicable State law to the first-stage administrative appellate authority in the same manner and to the same extent as a determination or redetermination of a right to regular compensation may be appealed under the applicable State law, except that the period for appealing shall be 60 days from the date the determination or redetermination is issued or mailed instead of the appeal period provided for in the applicable State law. Any decision on a DUA first-stage appeal must be made and issued within 30 days after receipt of the appeal by the State.

(2) Notice of the decision on appeal, and the reasons therefor, shall be given to the individual by delivering the notice to such individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The decision shall contain information as to the individual's right to review of the decision by the appropriate Regional Administrator, Employment and Training Administration, if requested within 15 days after the decision was mailed or delivered in person to the individual. The notice will include the manner of requesting such review, and the complete address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency (with the same notice of right to review) and to the appropriate Regional Administrator.

(b) *Guam, American Samoa, and the Trust Territory of the Pacific Islands.* (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands, the individual shall be entitled to a hearing and decision in accordance with § 625.30 of this part.

* * * * *

(c) *Review by Regional Administrator.* (1) The appropriate Regional Administrator, Employment and Training Administration, upon request for review by an applicant or the State agency shall, or upon the Regional Administrator's own motion may, review a decision on appeal issued pursuant to paragraph (a) or (b) of this section.

* * * * *

(3)(i) A request for review by an individual may be filed with the appropriate State agency, which shall forward the request to the appropriate Regional Administrator, Employment and Training Administration, or may be filed directly with the appropriate Regional Administrator.

(ii) A request for review by a State agency shall be filed with the appropriate Regional Administrator, and a copy shall be served on the individual by delivery to the individual personally or by mail to the individual's last known address.

(iii) When a Regional Administrator undertakes a review of a decision on the Regional Administrator's own motion, notice thereof shall be served promptly on the individual and the State agency.

(iv) Whenever review by a Regional Administrator is undertaken pursuant to an appeal or on the Regional Administrator's own motion, the State agency shall promptly forward to the Regional Administrator the entire record of the case.

(v) Where service on the individual is required by paragraph (c)(3)(ii) of this section, adequate proof of service shall be furnished for the record before the Regional Administrator, and be a condition of the Regional Administrator undertaking review pursuant to this paragraph.

(4) The decision of the Regional Administrator on review shall be rendered promptly, and not later than the earlier of—

(i) 45 days after the appeal is received or is undertaken by the Regional Administrator, or

(ii) 90 days from the date the individual's appeal from the determination or redetermination was received by the State agency.

(5) Notice of the Regional Administrator's decision shall be mailed promptly to the last known address of the individual, to the State agency of the applicable State, and to the Director, Unemployment Insurance Service. The decision of the Regional Administrator shall be the final decision under the Act and this part, unless there is further review by the Assistant Secretary as provided in paragraph (d) of this section.

(d) *Further review by the Assistant Secretary.* (1) The Assistant Secretary for Employment and Training on his own motion may review any decision by a Regional Administrator issued pursuant to paragraph (c) of this section.

(2) Notice of a motion for review by the Assistant Secretary shall be given to the applicant, the State agency of the applicable State, the appropriate Regional Administrator, and the Director, Unemployment Insurance Service.

* * * * *

(4) Review by the Assistant Secretary shall be solely on the record in the case, any other written contentions or evidence requested by the Assistant Secretary, and any further evidence or arguments offered by the individual, the State agency, the Regional Administrator, or the Director, Unemployment Insurance Service, which are mailed to the Assistant Secretary within 15 days after mailing the notice of motion for review.

* * * * *

(6) The decision of the Assistant Secretary shall be made promptly, and notice thereof shall be sent to the applicant, the State agency, the Regional Administrator, and the Director, Unemployment Insurance Service.

* * * * *

(e) *Procedural requirements.* (1) All decisions on first-stage appeals from determinations or redeterminations by the State agencies must be made within 30 days of the appeal; therefore, the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in Part 650 of this chapter shall not apply to the DUA program.

* * * * *

13. Paragraph (b) introductory text of § 625.12 is revised to read as follows.

§ 625.12 The applicable State for an individual.

* * * * *

(b) *Limitation.* DUA is payable to an individual only by an applicable State as determined pursuant to paragraph (a) of this section, and—

* * * * *

14. Section 625.13 is amended by removing paragraph (a)(1), and redesignating paragraphs (a)(2) through (a)(7) as paragraphs (a)(1) through (a)(6) and paragraph (a)(1), as redesignated, is revised to read as follows:

§ 625.13 Restrictions on entitlement; disqualification.

(a) Income reductions. * * *

(1) Any benefits or insurance proceed from any source not defined as "compensation" under § 625.2(d) for loss of wages due to illness or disability;

* * * * *

15. Section 625.14 is amended by revising paragraphs (b) and (h) to read as follows:

§ 625.14 Overpayments; disqualification for fraud.

* * * * *

(b) *Recovery by offset.* (1) The State agency shall recover, insofar as is possible, the amount of any outstanding overpayment of DUA made to the

individual by the State, by deductions from any DUA payable to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(2) The State agency shall also recover, insofar as possible, the amount of any outstanding overpayment of DUA made to the individual by another State, by deductions from any DUA payable by the State agency to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(3) If the State has in effect an agreement to implement the cross-program offset provisions of section 303(g)(2) of the Social Security Act (42 U.S.C. 503(g)(2)), the State shall apply the provisions of such agreement to the recovery of outstanding DUA overpayments.

* * * * *

(h) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of DUA shall be, as a minimum, commensurate with the procedures adopted by the State with respect to regular compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection," *Employment Security Manual,* Part V, sections 7510 *et seq.* (Appendix C of this part).

* * * * *

§ 625.20 [Amended]

16. In § 625.20, remove the date "October 16, 1977" and insert, in its place, the date "November 23, 1988".

17. New § 625.30 is added as follows:

§ 625.30 Appeal Procedures for Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(a) *Designation of referee.* The Director of the Unemployment Insurance Service shall designate a referee of a State agency to hear and decide appeals under this section from determinations and redeterminations by the State agencies of the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) *Appeals to referee.* (1) A DUA applicant may appeal from a determination or redetermination issued by the State agency of the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands within 60 days after the mailing of notice and a copy of such determination or redetermination to such applicant's last known address, or in the absence of mailing within 60 days after delivery in person thereof to such applicant. The appeal shall be in writing and may be filed with any office of the State agency.

(2) Notice that an appeal has been filed may be given or mailed, in the discretion of the referee, to any person who has offered or is believed to have evidence with respect to the claim.

(3) An appeal shall be promptly scheduled and heard, in order that a decision on the appeal can be issued within 30 days after receipt of the appeal by the State agency. Written notice of hearing, specifying the time and place thereof and those questions known to be in dispute, shall be given or mailed to the applicant, the State agency, and any person who has offered or is believed to have evidence with respect to the claim 7 days or more before the hearing, except that a shorter notice period may be used with the consent of the applicant.

(c) *Conduct of hearings.* Hearings before the referee shall be informal, fair, and impartial, and shall be conducted in such manner as may be best suited to determine the DUA applicants' right to compensation. Hearings shall be open to the public unless sufficient cause for a closed hearing is shown. The referee shall open a hearing by ascertaining and summarizing the issue or issues involved in the appeal. The applicant may examine and cross-examine witnesses, inspect documents, and explain or rebut any evidence. An opportunity to present argument shall be afforded such applicant, and such argument shall be made part of the record. The referee shall give such applicant, if not represented by counsel or other representative, every assistance that does not interfere with the impartial discharge of the referee's duties. The referee may examine such applicant and other witnesses to such extent as the referee deems necessary. Any issue involved in the claim shall be considered and passed upon even though such issue was not set forth as a ground of appeal.

(d) *Evidence.* Oral or written evidence of any nature, whether or not conforming to the legal rules of evidence, may be accepted. Any official record of the State agency, including reports submitted in connection with administration of the DUA program, may be included in the record if the applicant is given an opportunity to examine and rebut the same. A written statement under oath or affirmation may be accepted when it appears impossible or unduly burdensome to require the attendance of a witness, but a DUA applicant adversely affected by such a statement must be given the opportunity to examine such statement, to comment on or rebut any or all portions thereof, and whenever possible to cross-examine a witness whose testimony has been introduced in written form by submitting written questions to be answered in writing.

(e) *Record.* All oral testimony before the referee shall be taken under oath or affirmation and a transcript thereof shall be made and kept. Such transcript together with all exhibits, papers, and requests filed in the proceeding shall constitute the record for decision.

(f) *Withdrawal of appeal.* A DUA applicant who has filed an appeal may withdraw such appeal with the approval of the referee.

(g) *Nonappearance of DUA applicant.* Failure of a DUA applicant to appear at a hearing shall not result in a decision being automatically rendered against such applicant. The referee shall render a decision on the basis of whatever evidence is properly before him/her unless there appears to be a good reason for continuing the hearing. An applicant who fails to appear at a hearing with respect to his/her appeal may within seven days thereafter petition for a reopening of the hearing. Such petition shall be granted if it appears to the referee that such applicant has shown good cause for his/her failure to attend.

(h) *Notice of referee's decision and further review*—(1) *Decision.* A copy of the referee's decision, which shall include findings and conclusions, shall promptly be given or mailed to the applicant, the State agency, and to the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco). The decision of the referee shall be accompanied by an explanation of the right of such applicant or State agency to request review by the Regional Administrator and the time and manner in which such review may be instituted, as provided in paragraph (a)(2) of § 625.10.

(2) *Time limit for decision.* A decision on an appeal to a referee under this section shall be made and issued by the

referee not later than 30 days after receipt of the appeal by the State agency.

(3) *Further review.* Further review by the Regional Administrator or the Assistant Secretary with respect to an appeal under this section shall be in accordance with paragraphs (c) and (d) of § 625.10.

(i) *Consolidation of appeals.* The referee may consolidate appeals and conduct joint hearings thereon where the same or substantially similar evidence is relevant and material to the matters in issue. Reasonable notice of consolidation and the time and place of hearing shall be given or mailed to the applicants or their representatives, the State agency, and to persons who have offered or are believed to have evidence with respect to the DUA claims.

(j) *Representation.* A DUA applicant may be represented by counsel or other representative in any proceedings before the referee or the Regional Administrator. Any such representative may appear at any hearing or take any other action which such applicant may take under this part. The referee, for cause, may bar any person from representing an applicant, in which event such action shall be set forth in the record. No representative shall charge an applicant more than an amount fixed by the referee for representing the applicant in any proceeding under this section.

(k) *Postponement, continuance, and adjournment of hearings.* A hearing before the referee shall be postponed, continued, or adjourned when such action is necessary to afford a DUA applicant reasonable opportunity for a fair hearing. In such case notice of the subsequent hearing shall be given to any person who received notice of the prior hearing.

(l) *Information from agency records.* Information shall be available to a DUA applicant, either from the records of the State agency or as obtained in any proceeding herein provided for, to the extent necessary for proper presentation of his/her case. All requests for information shall state the nature of the information desired as clearly as possible and shall be in writing unless made at a hearing.

(m) *Filing of decisions.* Copies of all decisions of the referee shall be kept on file at his/her office or agency for at least 3 years.

18. Add new Appendixes A through C to part 625 to read as follows:

Appendix "A" to part 625—Standard for Claim Filing, Claimant Reporting, Job Finding, and Employment Services

Employment Security Manual (Part V, Sections 5000–5004)

5000 *Standard for Claim Filing, Claimant Reporting, Job Finding, and Employment Services*

A. *Federal law requirements.* Section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act require that a State law provide for: "Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary may approve."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law provide for: "Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation * * *"

Section 303(a)(1) of the Social Security Act requires that the State law provide for: "Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

B. *Secretary's interpretation of federal law requirements:* 1. The Secretary interprets section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act to require that a State law provide for payment of unemployment compensation solely through public employment offices or claims offices administered by the State employment security agency if such agency provides for such coordination in the operations of its public employment offices and claims offices as will insure (a) the payment of benefits only to individuals who are unemployed and who are able to work and available for work, and (b) that individuals claiming unemployment compensation (claimants) are afforded such placement and other employment services as are necessary and appropriate to return them to suitable work as soon as possible.

2. The Secretary interprets all the above sections to require that a State law provide for: a. Such contact by claimants with public employment offices or claims offices or both, (1) as will reasonably insure the payment of unemployment compensation only to individuals who are unemployed and who are able to work and available for work, and (2) that claimants are afforded such placement and other employment services as are necessary and appropriate to facilitate their return to suitable work as soon as possible; and b. Methods of administration which do not unreasonably limit the opportunity of individuals to establish their right to unemployment compensation due under such State law.

5001 *Claim Filing and Claimant Reporting Requirements Designed to Satisfy Secretary's Interpretation*

A. *Claim filing—total or part-total unemployment:* 1. Individuals claiming unemployment compensation for total or part-total unemployment are required to file a claim weekly or biweekly, in person or by mail, at a public employment office or a claims office (these terms include offices at itinerant points) as set forth below.

2. Except as provided in paragraph 3, a claimant is required to file in person: a. His new claim with respect to a benefit year, or his continued claim for a waiting week or for his first compensable week of unemployment in such year; and b. Any other claim, when requested to do so by the claims personnel at the office at which he files his claim(s) because questions about his right to benefits are raised by circumstances such as the following:

(1) The conditions or circumstances of his separation from employment;

(2) The claimant's answers to questions on mail claim(s) indicate that he may be unable to work or that there may be undue restrictions on his availability for work or that his search for work may be inadequate or that he may be disqualified;

(3) The claimant's answers to questions on mail claims create uncertainty about his credibility or indicate a lack of understanding of the applicable requirements; or

(4) The claimant's record shows that he has previously filed a fraudulent claim.

In such circumstances, the claimant is required to continue to file claims in person each week (or biweekly) until the State agency determines that filing claims in person is no longer required for the resolution of such questions.

3. A claimant must be permitted to file a claim by mail in any of the following circumstances: a. He is located in an area requiring the expenditure of an unreasonable amount of time or money in traveling to the nearest facility established by the State agency for filing claims in person; b. Conditions make it impracticable for the agency to take claims in person; c. He has returned to full-time work on or before the scheduled date for his filing a claim, unless the agency makes provision for in-person filing at a time and place that does not interfere with his employment; d. The agency finds that he has good cause for failing to file a claim in person.

4. A claimant who has been receiving benefits for partial unemployment may continue to file claims as if he were a partially unemployed worker for the first four consecutive weeks of total or part-total unemployment immediately following his period of partial unemployment so long as he remains attached to his regular employer.

B. *Claim filing—partial unemployment.* Each individual claiming unemployment compensation for a week (or other claim period) during which, because of lack of work, he is working less than his normal customary full-time hours for his regular employer and is earning less than the earnings limit provided in the State law, shall not be required to file a claim for such week or other claim period earlier than 2 weeks from the date that wages are paid for such claim period or, if a low earnings report is required by the State law, from the date the employer furnished such report to the individual. State agencies may permit claims for partial unemployment to be filed either in person or by mail, except that in the

circumstances set forth in section A 3, filing by mail must be permitted, and in the circumstances set forth in section A 2 b, filing in person may be required.

5002 *Requirement for Job Finding, Placement, and other Employment Services Designed to Satisfy Secretary's Interpretation*

A. Claims personnel are required to assure that each claimant is doing what a reasonable individual in his circumstances would do to obtain suitable work.

B. In the discretion of the State agency: 1. The claims personnel are required to give each claimant such necessary and appropriate assistance as they reasonably can in finding suitable work and at their discretion determine when more complete placement and employment services are necessary and appropriate for a claimant; and if they determine more complete services are necessary and appropriate, the claims personnel are to refer him to employment service personnel in the public employment office in which he has been filing claim(s), or, if he has been filing in a claims office, in the public employment office most accessible to him; *or*

2. All placement and employment services are required to be afforded to each claimant by employment service personnel in the public employment office most accessible to him in which case the claims personnel in the office in which the claimant files his claim are to refer him to the employment service personnel when placement or other employment services are necessary and appropriate for him.

C. The personnel to whom the State agency assigns the responsibilities outlined in paragraph B above are required to give claimants such job-finding assistance, placement, and other employment services as are necessary and appropriate to facilitate their return to suitable work as soon as possible.

In some circumstances, no such services or only limited services may be required. For example, if a claimant is on a short-term temporary layoff with a fixed return date, the only service necessary and appropriate to be given to him during the period of the layoff is a referral to suitable temporary work if such work is being performed in the labor market area.

Similarly, claimants whose unemployment is caused by a labor dispute presumably will return to work with their employer as soon as the labor dispute is settled. They generally do not need services, nor do individuals in occupations where placement customarily is made by other nonfee charging placement facilities such as unions and professional associations.

Claimants who fall within the classes which ordinarily would require limited services or no services shall, if they request placement and employment services, be afforded such services as are necessary and appropriate for them to obtain suitable work or to achieve their reasonable employment goals.

On the other hand, a claimant who is permanently separated from his job is likely to require some services. He may need only some direction in how to get a job; he may need placement services if he is in an occupation for which there is some demand in the labor market area; if his occupation is outdated, he may require counseling and referral to a suitable training course. The extent and character of the services to be given any particular claimant may change with the length of his unemployment and depend not only on his own circumstances and conditions, but also on the condition of the labor market in the area.

D. Claimants are required to report to employment service personnel, as directed, but such personnel and the claims personnel are required to so arrange and coordinate the contracts required of a claimant as not to place an unreasonable burden on him or unreasonably limit his opportunity to establish his rights to compensation. As a general rule, a claimant is not required to contact in person claims personnel or employment service personnel more frequently than once a week, unless he is directed to report more frequently for a specific service such as referral to a job or a training course or counseling which cannot be completed in one visit.

E. Employment service personnel are required to report promptly to claims personnel in the office in which the claimant files his claim(s): (1) his failure to apply for or accept work to which he was referred by such personnel or when known, by any other nonfee-charging placement facility such as a union or a professional association; and (2) any information which becomes available to it that may have a bearing on the claimant's ability to work or availability for work, or on the suitability of work to which he was referred or which was offered to him.

5004 *Evaluation of Alternative State Provisions*

If the State law provisions do not conform to the "suggested State law requirements" set forth in sections 5001 and 5002, but the State law contains alternative provisions, the Manpower Administrator, in collaboration with the State agency, will study the actual or anticipated affect of the alternative provisions. If the Manpower Administrator concludes that the alternative provisions satisfy the requirements of the Federal law as construed by the Secretary (see section 5000 B) he will so notify the State agency. If he does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy such requirements, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy such requirements, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.5.

Appendix "B" to Part 625—Standard for Claim Determinations—Separation Information

Employment Security Manual (Part V, Sections 6010–6015)

6010–6019 *Standard for Claim Determinations—Separation Information*

6010 *Federal Law Requirements.* Section 303(a)(1) of the Social Security Act requires that a State law include provision for: "Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 303(a)(3) of the Social Security Act requires that a State law include provision for: "Opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law include provision for: "Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation . . . ."

Section 3306(h) of the Federal Unemployment Tax Act defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

6011 *Secretary's Interpretation of Federal Law Requirements.* The Secretary interprets the above sections to require that a State law include provisions which will insure that: A. Individuals who may be entitled to unemployment compensation are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the unemployment compensation law of such State, and

B. The State agency obtains and records in time for the prompt determination and review of benefit claims such information as will reasonably insure the payment of benefits to individuals to whom benefits are due.

6012 *Criteria for Review of State Law Conformity with Federal Requirements.* In determining the conformity of a State law with the above requirements of the Federal Unemployment Tax Act and the Social Security Act as interpreted by the Secretary, the following criteria will be applied:

A. Is it required that individuals who may be entitled to unemployment compensation be furnished such information of their potential rights to benefits, including the manner and places of filing claims, the reasons for determinations, and their rights of appeal, as will insure them a reasonable opportunity to know, establish, and protect their rights under the law of the State?

B. Is the State agency required to obtain, in time for prompt determination of rights to benefits such information as will reasonably insure the payment of benefits to individuals to whom benefits are due?

C. Is the State agency required to keep records of the facts considered in reaching determinations of rights to benefits?

6013 *Claim Determinations Requirements Designed To Meet Department of Labor Criteria.*

A. *Investigation of claims.* The State agency is required to obtain promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to insure the payment of benefits when due.

This requirement embraces five separate elements:

1. It is the responsibility of the agency to take the initiative in the discovery of information. This responsibility may not be passed on to the claimant or the employer. In addition to the agency's own records, this information may be obtained from the worker, the employer, or other sources. If the information obtained in the first instance discloses no essential disagreement and provides a sufficient basis for a fair determination, no further investigation is necessary. If the information obtained from other sources differs essentially from that furnished by the claimant, the agency, in order to meet its responsibility, is required to inform the claimant of such information from other sources and to afford the claimant an opportunity to furnish any further facts he may have.

2. Evidentiary facts must be obtained as distinguished from ultimate facts or conclusions. That a worker was discharged for misconduct is an ultimate fact or conclusion; that he destroyed a machine upon which he was working is a primary or evidentiary fact, and the sort of fact that the requirement refers to.

3. The information obtained must be sufficient reasonably to insure the payment of benefits when due. In general, the investigation made by the agency must be complete enough to provide information upon which the agency may act with reasonable assurance that its decision is consistent with the unemployment compensation law. On the other hand, the investigation should not be so exhaustive and time-consuming as unduly to delay the payment of benefits and to result in excessive costs.

4. Information must be obtained promptly so that the payment of benefits is not unduly delayed.

5. If the State agency requires any particular evidence from the worker, it must give him a reasonable opportunity to obtain such evidence.

B. *Recording of facts.* The agency must keep a written record of the facts considered in reaching its determinations.

C. *Determination notices*

1. The agency must give each claimant a written notice of:

a. Any monetary determination with respect to his benefit year;

b. Any determination with respect to purging a disqualification if, under the State law, a condition or qualification must be satisfied with respect to each week of disqualification; but in lieu of giving written notice of each determination for each week in which it is determined that the claimant has met the requirements for purging, the agency may inform the claimant that he has purged the disqualification for a week by notation on his application identification card or otherwise in writing.

c. Any other determination which adversely affects [1] his rights to benefits, except that written notice of determination need not be given with respect to:

(1) A week in a benefit year for which the claimant's weekly benefit amount is reduced in whole or in part by earnings if, the first time in the benefit year that there is such a reduction, he is required to be furnished a booklet or leaflet containing the information set forth below in paragraph 2 f (1). However, a written notice of determination is required if: (a) there is a dispute concerning the reduction with respect to any week (e.g., as to the amount computed as the appropriate reduction, etc.); or (b) there is a change in the State law (or in the application thereof) affecting the reduction; or

(2) Any week in a benefit year subsequent to the first week in such benefit year in which benefits were denied, or reduced in whole or in part for reasons other than earnings, if denial or reduction for such subsequent week is based on the same reason and the same facts as for the first week, and if written notice of determination is required to be given to the claimant with respect to such first week, and with such notice of determination, he is required to be given a booklet or pamphlet containing the information set forth below in paragraphs 2 f (2) and 2 h. However, a written notice of determination is required if: (a) there is a dispute concerning the denial or reduction of benefits with respect to such week; or (b) there is a change in the State law (or in the application thereof) affecting the denial or reduction; or (c) there is a change in the amount of the reduction except as to the balance covered by the last reduction in a series of reductions.

Note: This procedure may be applied to determinations made with respect to any subsequent weeks for the same reason and on the basis of the same facts: (a) that claimant is unable to work, unavailable for work, or is disqualified under the labor dispute provision; and (b) reducing claimant's weekly benefit amount because of income other than earnings or offset by reason of overpayment.

2. The agency must include in written notices of determinations furnished to claimants sufficient information to enable them to understand the determinations, the reasons therefor, and their rights to protest, request reconsideration, or appeal.

The written notice of monetary determination must contain the information specified in the following items (except h) unless an item is specifically not applicable. A written notice of any other determination must contain the information specified in as many of the following items as are necessary to enable the claimant to understand the determination and to inform him of his appeal rights. Information specifically applicable to the individual claimant must be contained in the written notice of determination. Information of general application such as (but not limited to) the explanation of benefits for partial unemployment, information as to deductions, seasonality factors, and information as to the manner and place of taking an appeal, extension of the appeal period, and where to obtain information and assistance may be contained in a booklet or leaflet which is given the claimant with his monetary determination.

a. *Base period wages.* The statement concerning base-period wages must be in sufficient detail to show the basis of computation of eligibility and weekly and maximum benefit amounts. (If maximum benefits are allowed, it may not be necessay to show details of earnings.)

b. *Employer name.* The name of the employer who reported the wages is necessary so that the worker may check the wage transcript and know whether it is correct. If the worker is given only the employer number, he may not be able to check the accuracy of the wage transcript.

c. *Explanation of benefit formula—weekly and maximum benefit amounts.* Sufficient information must be given the worker so that he will understand how his weekly benefit amount, including allowances for dependents, and his maximum benefit amount were figured. If benefits are computed by means of a table contained in the law, the table must be furnished with the notice of determination whether benefits are granted or denied.

The written notice of determination must show clearly the weekly benefit amount and the maximum potential benefits to which the claimant is entitled.

The notice to a claimant found ineligible by reason of insufficient earnings in the base period must inform him clearly of the reason for ineligibility. An explanation of the benefit formula contained in a booklet or pamphlet should be given to each claimant at or prior to the time he receives written notice of a monetary determination.

d. *Benefit year.* An explanation of what is meant by the benefit year and identification of the claimant's benefit year must be included in the notice of determination.

e. *Information as to benefits for partial unemployment.* There must be included either in the written notice of determination or in a booklet or pamphlet accompanying the notice an explanation of the claimant's rights to partial benefits for any week with respect to which he is working less than his normal customary full-time workweek because of lack of work and for which he earns less than his weekly benefit amount or weekly benefit amount plus earnings, whichever is provided by the State law. If the explanation is contained in the notice of determination, reference to the item in the notice in which

[1] A determination "adversely affects" claimant's right to benefits if it (1) results in a denial to him of benefits (including a cancellation of benefits or wage credits or any reduction in whole or in part below the weekly or maximum amount established by his monetary determination) for any week or other period; or (2) denies credit for a waiting week; or (3) applies any disqualification or penalty; or (4) determines that he has not satisfied a condition of eligibility, requalification for benefits, or purging a disqualification; or (5) determines that an overpayment has been made or orders repayment or recoupment of any sum paid to him; or (6) applies a previously determined overpayment, penalty, or order for repayment or recoupment; or (7) in any other way denies claimant a right to benefits under the State law.

his weekly benefit amount is entered should be made.

f. *Deductions from weekly benefits*

(1) *Earnings.* Although written notice of determinations deducting earnings from a claimant's weekly benefit amount is generally not required (see paragraph 1 c(1) above), where written notice of determination is required (or given) it shall set forth the amount of earnings, the method of computing the deduction in sufficient detail to enable the claimant to verify the accuracy of the deduction, and his right to protest, request redetermination, and appeal. Where a written notice of determination is given to the claimant because there has been a change in the State law or in the application of the law, an explanation of the change shall be included.

Where claimant is not required to receive a written notice of determination, he must be given a booklet or pamphlet the first time in his benefit year that there is a deduction for earnings which shall include the following information:

(a) The method of computing deductions for earnings in sufficient detail to enable the claimant to verify the accuracy of the deduction;

(b) That he will not automatically be given a written notice of determination for a week with respect to which there is a deduction for earnings (unless there is a dispute concerning the reduction with respect to a week or there has been a change in the State law or in the application of the law affecting the deduction) but that he may obtain such a written notice upon request; and

(c) A clear statement of his right to protest, request a redetermination, and appeal from any determination deducting earnings from his weekly benefit amount even though he does not automatically receive a written notice of determination; and if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

(2) *Other deductions*

(a) A written notice of determination is required with respect to the first week in claimant's benefit year in which there is a reduction from his benefits for a reason other than earnings. This notice must describe the deduction made from claimaint's weekly benefit amount, the reason for the deduction, the method of computing it in sufficient detail to enable him to verify the accuracy of such deduction, and his right to protest, request redetermination, or appeal.

(b) A written notice of determination is not required for subsequent weeks that a deduction is made for the same reason and on the basis of the same facts, if the notice of determination pursuant to (2)(a), or a booklet or pamphlet given him with such notice explains (i) the several kinds of deductions which may be made under the State law (e.g., retirement pensions, vacation pay, and overpayments); (ii) the method of computing each kind of deduction in sufficient detail that claimant will be able to verify the accuracy of deductions made from his weekly benefit payments; (iii) any limitation on the amount of any deduction or the time in which any deduction may be made; (iv) that he will not automatically be given a written notice of determination for subsequent weeks with respect to which there is a deduction for the same reason and on the basis of the same facts, but that he may obtain a written notice of determination upon request; (v) his right to protest, request redetermination, or appeal with respect to subsequent weeks for which there is a reduction from his benefits for the same reason, and on the basis of the same facts even though he does not automatically receive a written notice of determination; and (vi) that if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

g. *Seasonality factors.* If the individual's determination is affected by seasonality factors under the State law, an adequate explanation must be made. General explanations of seasonality factors which may affect determinations for subsequent weeks may be included in a booklet or pamphlet given claimant with his notice of monetary determination.

h. *Disqualification or ineligibility.* If a disqualification is imposed, or if the claimant is declared ineligible for one or more weeks, he must be given not only a statement of the period of disqualification or ineligibility and the amount of wage-credit reductions, if any, but also an explanation of the reason for the ineligibility or disqualification. This explanation must be sufficiently detailed so that he will understand why he is ineligibile or why he has been disqualified, and what he must do in order to requalify for benefits or purge the disqualification. The statement must be individualized to indicate the facts upon which the determination was based, e.g., state, "It is found that you left your work with Blank Company because you were tired of working; the separation was voluntary, and the reason does not constitute good cause," rather than merely the phrase "voluntary quit." Checking a box as to the reason for the disqualification is not a sufficiently detailed explanation. However, this statement of the reason for the disqualification need not be a restatement of all facts considered in arriving at the determination.

1. *Appeal rights.* The claimant must be given information with respect to his appeal rights.

(1) The following information shall be included in the notice of determination:

(a) A statement that he may appeal or, if the State law requires or permits a protest or redetermination before an appeal, that he may protest or request a redetermination.

(b) The period within which an appeal, protest, or request for redetermination must be filed. The number of days provided by statute must be shown as well as either the beginning date or ending date of the period. (It is recommended that the ending date of the appeal period be shown, as this is the more understandable of the alternatives.)

(2) The following information must be included either in the notice of determination or in separate informational material referred to in the notice:

(a) The manner in which the appeal, protest, or request for redetermination must be filed, e.g., by signed letter, written statement, or on a prescribed form, and the place or places to which the appeal, protest, or request for redetermination may be mailed or hand-delivered.

(b) An explanation of any circumstances (such as nonworkdays, good cause, etc.) which will extend the period for the appeal, protest, or request for redetermination beyond the date stated or identified in the notice of determination.

(c) That any further information claimant may need or desire can be obtained together with assistance in filing his appeal, protest, or request for redetermination from the local office.

If the information is given in separate material, the notice of determination would adequately refer to such material if it said, for example, "For other information about your (appeal), (protest), (redetermination) rights, see pages ____ to ____ of the ________ (name of pamphlet or booklet) heretofore furnished to you."

6014 *Separation Information Requirements Designed To Meet Department of Labor Criteria*

A. *Information to agency.* Where workers are separated, employers are required to furnish the agency promptly, either upon agency request or upon such separation, a notice describing the reasons for and the circumstances of the separation and any additional information which might affect a claimant's right to benefits. Where workers are working less than full time, employers are required to furnish the agency promptly, upon agency request, information concerning a claimant's hours of work and his wages during the claim periods involved, and other facts which might affect a claimant's eligibility for benefits during such periods.

When workers are separated and the notices are obtained on a request basis, or when workers are working less than full time and the agency requests information, it is essential to the prompt processing of claims that the request be sent out promptly after the claim is filed and the employer be given a specific period within which to return the notice, preferably within 2 working days.

When workers are separated and notices are obtained upon separation, it is essential that the employer be required to send the notice to the agency with sufficient promptness to insure that, if a claim is filed, it may be processed promptly. Normally, it is desirable that such a notice be sent to the central office of the agency, since the employer may not know in which local office the worker will file his claim. The usual procedure is for the employer to give the worker a copy of the notice sent by the employer to the agency.

B. *Information of worker.* 1. *Information required to be given.* Employers are required to give their employees information and

instructions concerning the employees' potential rights to benefits and concerning registration for work and filing claims for benefits.

The information furnished to employees under such a requirement need not be elaborate; it need only be adequate to insure that the worker who is separated or who is working less than full time knows he is potentially eligible for benefits and is informed as to what he is to do or where he is to go to file his claim and register for work. When he files his claim, he can obtain more detailed information.

In States that do not require employers to furnish periodically to the State agency detailed reports of the wages paid to their employees, each employer is required to furnish to his employees information as to (a) the name under which he is registered by the State agency, (b) the address where he maintains his payroll records, and (c) the workers' need for this information if and when they file claims for benefits.

2. *Methods for giving information.* The information and instructions required above may be given in any of the following ways:

a. *Posters prominently displayed in the employer's establishment.* The State agency should supply employers with a sufficient number of posters for distribution throughout their places of business and should see that the posters are conspicuously displayed at all times.

b. *Leaflets.* Leaflets distributed either periodically or at the time of separation or reduction of hours. The State agency should supply employers with a sufficient number of leaflets.

c. *Individual notices.* Individual notices given to each employee at the time of separation or reduction in hours.

It is recommended that the State agency's publicity program be used to supplement the employer-information requirements. Such a program should stress the availability and location of claim-filing offices and the importance of visiting those offices whenever the worker is unemployed, wishes to apply for benefits, and to seek a job.

6015 *Evaluation of Alternative State Provisions with Respect to Claim Determinations and Separation Information.* If the State law provisions do not conform to the suggested requirements set forth in sections 6013 and 6014, but the State law contains alternative provisions, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effects of the alternative provisions. If the Administrator of the Bureau concludes that the alternative provisions satisfy the criteria in section 6012, he will so notify the State agency. If the Administrator of the Bureau does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy the criteria in section 6012, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy the criteria, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.5.

Appendix "C" to Part 625—Standard for Fraud and Overpayment Detection

Employment Security Manual (Part V, Sections 7510–7515)

7510–7519 *Standard for Fraud and Overpayment Detection*

7510 *Federal Law Requirements.* Section 303(a)(1) of the Social Security Act requires that a State law include provision for:

"Such methods of administration * * * as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 1603(a)(4) of the Internal Revenue Code and section 3030(a)(5) of the Social Security Act require that a State law include provision for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation * * *"

Section 1607(h) of the Internal Revenue Code defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

7511 *The Secretary's Interpretation of Federal Law Requirements.* The Secretary of Labor interprets the above sections to require that a State law include provision for such methods of administration as are, within reason, calculated (1) to detect benefits paid through error by the agency or through willful misrepresentation or error by the claimant or others, and (2) to deter claimants from obtaining benefits through willful misrepresentation.

7513 *Criteria for Review of State Conformity With Federal Requirements.* In determining State conformity with the above requirements of the Internal Revenue Code and the Social Security Act, as interpreted by the Secretary of Labor, the following criteria will be applied:

A. *Are investigations required to be made after the payment of benefits, (or, in the case of interstate claims, are investigations made by the agent State after the processing of claims) as to claimants' entitlement to benefits paid to them in a sufficient proportion of cases to test the effectiveness of the agency's procedures for the prevention of payments which are not due? To carry out investigations, has the agency assigned to some individual or unit, as a basic function, the responsibility of making or functionally directing such investigations?*

Explanation: It is not feasible to prescribe the extent to which the above activities are required; however, they should always be carried on to such an extent that they will show whether or not error or willful misrepresentation is increasing or decreasing, and will reveal problem areas. The extent and nature of the above activities should be varied according to the seriousness of the problem in the State. The responsible individual or unit should:

1. Check paid claims for overpayment and investigate for willful misrepresentation or, alternatively, advise and assist the operating units in the performance of such functions, or both;

2. Perform consultative services with respect to methods and procedures for the prevention and detection of fraud; and

3. Perform other services which are closely related to the above.

Although a State agency is expected to make a full-time assignment of responsibility to a unit or individual to carry on the functions described above, a small State agency might make these functions a part-time responsibility of one individual. In connection with the detection of overpayments, such a unit or individual might, for example:

(a) Investigate information on suspected benefit fraud received from any agency personnel, and from sources outside the agency, including anonymous complaints;

(b) Investigate information secured from comparisons of benefit payments with employment records to detect cases of concurrent working (whether in covered or noncovered work) and claiming of benefits (including benefit payments in which the agency acted as agency for another State).

The benefit fraud referred to herein may involve employers, agency employees, and witnesses, as well as claimants.

Comparisons of benefit payments with employment records are commonly made either by post-audit or by industry surveys. The so-called "post-audit" is a matching of central office wage-record files against benefit payments for the same period. "Industry surveys" or "mass audits" are done in some States by going directly to employers for pay-roll information to be checked against concurrent benefit lists. A plan

A. of investigation based on a sample post-audit will be considered as partial fulfillment of the investigation program; it would need to be supplemented by other methods capable of detecting overpayments to persons who have moved into noncovered occupations or are claiming interstate benefits.

B. *Are adequate records maintained by which the results of investigations may be evaluated?*

Explanation: To meet this criterion, the State agency will be expected to maintain records of all its activities in the detection of overpayments, showing whether attributable to error or willful misrepresentation, measuring the results obtained through various methods, and noting the remedial action taken in each case. The adequacy and effectiveness of various methods of checking for willful misrepresentation can be evaluated only if records are kept of the results obtained. Internal reports on fraudulent and erroneous overpayments are needed by State agencies for self-evaluation. Detailed records should be maintained in order that the State agency may determine, for example, which of several methods of checking currently used are the most productive. Such records also will provide the basis for drawing a clear distinction between fraud and error.

C. *Does the agency take adequate action with respect to publicity concerning willful misrepresentation and its legal consequences to deter fraud by claimants?*

Explanation: To meet this criterion, the State agency must issue adequate material on claimant eligibility requirements and must take necessary action to obtain publicity on the legal consequences of willful misrepresentation or willful nondisclosure of facts.

Public announcements on convictions and resulting penalties for fraud are generally considered necessary as a deterrent to other persons, and to inform the public that the agency is carrying on an effective program to prevent fraud. This alone is not considered adequate publicity. It is important that information be circulated which will explain clearly and understandably the claimant's rights, and the obligations which he must fulfill to be eligible for benefits. Leaflets for distribution and posters placed in local offices are appropriate media for such information.

7515 *Evaluation of Alternative State Provisions with Respect to Erroneous and Illegal Payments.* If the methods of administration provided for by the State law do not conform to the suggested methods of meeting the requirements set forth in section 7511, but a State law does provide for alternative methods of administration designed to accomplish the same results, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effect of the alternative methods of administration. If the Bureau concludes that the alternative methods satisfy the criteria in section 7513, it will so notify the State agency. If the Bureau does not so conclude, it will submit to the Secretary the results of the study for his determination of whether the State's alternative methods of administration meet the criteria.

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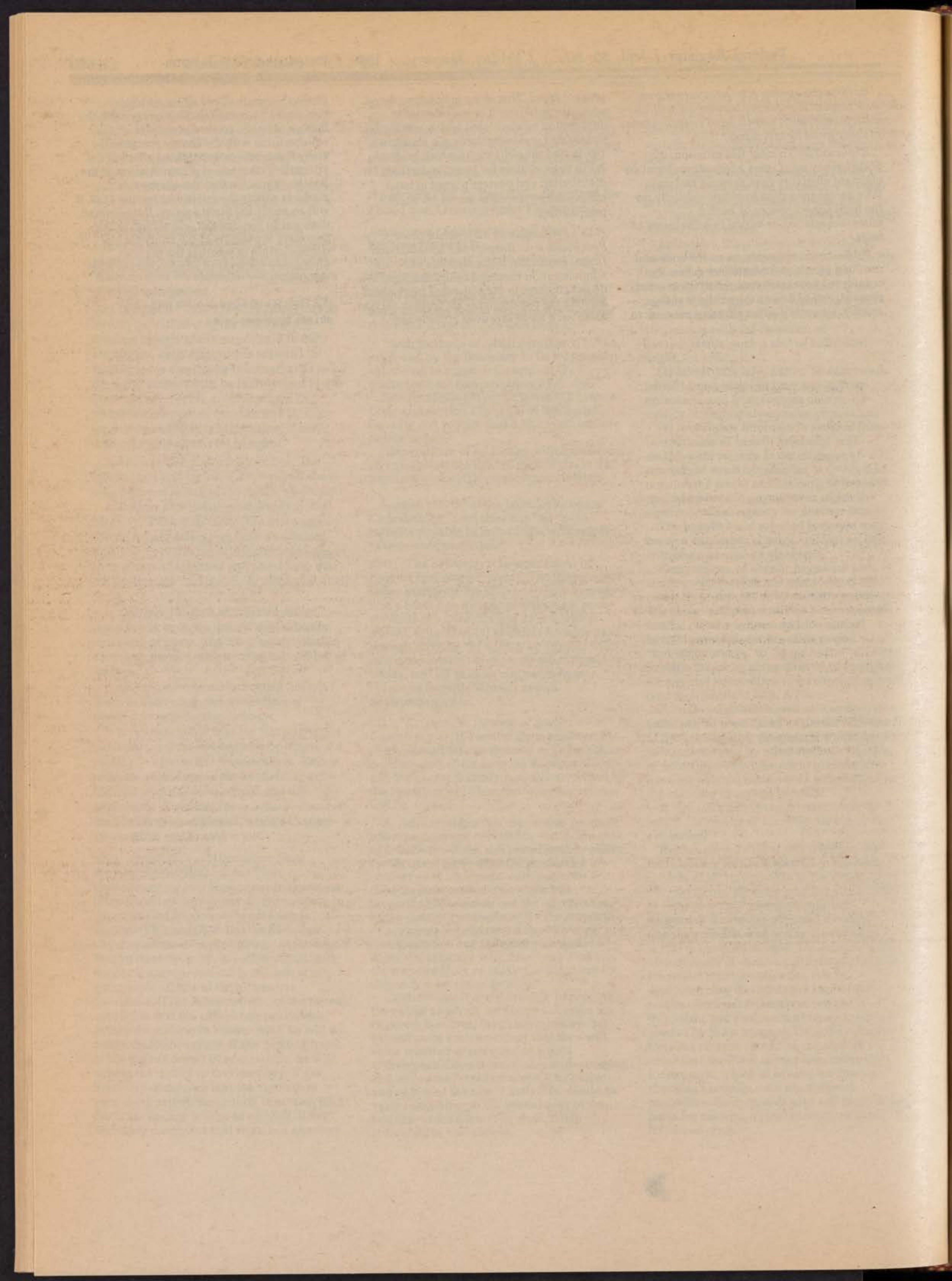

federal register

Friday
January 5, 1990

Part III

Department of the Treasury

Fiscal Service

31 CFR Part 351 and 353

United States Savings Bonds, Series EE and HH; Final Rules

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 351

[Dept. of the Treas. Cir., Public Debt Series No. 1-80, 3rd Rev.]

Offering of United States Savings Bonds, Series EE

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This Third Revision of Department of the Treasury Circular, Public Debt Series No. 1–80, is being published to implement the decision of the Secretary of the Treasury to grant extensions of maturity for United States Savings Bonds, Series EE, so that each bond that remains outstanding will continue to earn interest for a total period of 30 years from its issue date. In addition to its original maturity period, each Series EE bond will receive one 10-year maturity extension and one additional extension such that it will continue to earn interest for a total period of 30 years, unless sooner redeemed.

This revision also implements provisions of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, Nov. 10,1988, which, under certain conditions, permits the exclusion of interest received upon redemption on Series EE bonds, issued onor after January l, 1990, from income for Federal income tax purposes, where the owner-taxpayer incurs post-secondary education expenses.

Further, a change was made to reflect amendments to 31 CFR part 353 relating to Series EE bonds purchased as gifts and delivered to persons other than owners or coowners.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Dean A. Adams, Assistant Chief Counsel, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 420–6505.

SUPPLEMENTARY INFORMATION: The Secretary of the Treasury has decided that all United States Savings Bonds, Series EE, heretofore and hereafter issued, shall reach final maturity and cease to accrue interest 30 years from their issue dates, unless sooner redeemed. In addition to an original maturity period of8, 9, 10, 11, or 12 years (depending upon its issue date), each outstanding Series EE bond, as well as each Series EE bond issued under the current offering, may be held at interest for a single 10-year extended maturity period. An additional extension, as appropriate, with interest, will be granted so that all present and future Series EE savings bonds that remain outstanding will continue to earn interest for a total period of 30 years from issue date. The following table shows, by dates of issue, the original maturity dates, terms and final dates of maturity of all Series EE bonds:

Issue dates—1st day of:	Original maturity dates—1st day of:	Original terms	Final maturity dates—lst day of:
Jan. 1980–Oct. 1980	Jan. 1991–Oct. 1991	11 Years	Jan. 2010–Oct. 2010.
Nov. 1980–Apr. 1981	Nov. 1989–Apr. 1990	9 Years	Nov. 2010–Apr. 2011.
May 1981–Oct. 1982	May 1989–Oct. 1990	8 Years	May 2011–Oct. 2012.
Nov. 1982–Oct. 1986	Nov. 1992–Oct. 1996	10 Years	Nov. 2012–Oct. 2016
Nov. 1986, and thereafter	Nov. 1998, and thereafter	12 Years	Nov. 2016, and thereafter.

The term "extended maturity period" refers to the period or periods during which an outstanding savings bond continues to accrue interest after the end of the original or initial maturity period. To take advantage of the extensions, owners of Series EE bonds need only continue to hold their bonds. The policy of extending savings bond maturities is sound, not only because bonds offer an excellent means for long-term savings, but also because they provide a cost-effective source of Federal Government borrowing. Section 351.2 has been amended to add anew subsection (g) to provide for such extensions.

On May 2, 1989, a notice was published in the **Federal Register** (Vol. 54, No. 83, at page 18853) that a 10-year extension of maturity with interest had been granted to Series EE savings bonds with issue dates of May 1 through October 1, 1981, and that a new market-based yield computation rule would apply toany Series EE savings bonds issued, or entering an extended maturity period, on or after May 1, 1989. The 10-year extension granted at that time is included in the 30-year total maturity period granted by § 351.2(g)(2), and the new yield computation rules mentioned above will apply thereto, as provided in § 351.2(e)(2)(iii) and (g)(3)(ii).

The table in § 351.2(b) showing the issue price for each denomination of Series EE bonds now includes a note to the effect that no $50 and $75 bonds are available for purchase through payroll savings plans by participants enrolling therein on orafter February 1, 1988.

The Technical and Miscellaneous Revenue Act of 1988, Public Law 100–647, section 6009, provides that certain taxpayers may exclude all or a portion of interest accrued and received on Series EE savings bonds issued on or after January 1, 1990, if in the year of receipt such taxpayers pay qualified post-secondary education expenses. General guidelines for this new feature ofthe bonds are included in this revision at § 351.9. The governing rule therefor will be promulgated by the Internal Revenue Service. Further, collections of information within the meaning of the Paperwork Reduction Act (44 U.S.C. 3507) will bethe sole responsibility of the Internal Revenue Service since such information will be furnished by each taxpayer to suppor this or her claim for interest exclusion, and not as a result of any requirement of this savings bond offering or of the regulations governing such bonds.

In addition, 31 CFR part 353, the governing regulations for Series EE and HH savings bonds, is being amended to reflect a modification of requirements relating to gift bond purchases. A new rule has been adopted relating to persons named on bonds for delivery, rather than ownership, purposes. The gift provision was revised to eliminate the requirement that Series EE savings bonds purchased as gifts bear the notation "GIFT" when the social security account number of the first-named registrant (the donee) is not known to the purchaser, and the purchaser's number is inscribed on the bond instead. A provision was added to the effect that rights of ownership are not conferred on a purchaser, or other individual, whose name and address are inscribed on a bond for delivery purposes. These changes are reflected in this revision at § 351.3.

Procedural Requirements

Because this final rule relates to public contracts, the notice and public comment and delayed effective date

provisions of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). This final rule is not a major rule as defined in Executive Order 12291, "Federal Regulations." A regulatory impact analysis is, therefore, not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

List of Subjects in 31 CFR Part 351

Bonds, Federal Reserve System, Government securities

Dated: December 29, 1989.

Gerald Murphy,

Fiscal Assistant Secretary.

31 CFR chapter II is amended as follows:

Part 351, as contained in Department of the Treasury Circular, Public Debt Series No. 1–80, Second Revision, effective November 1, 1982, is being revised and issued as Department of the Treasury Circular, Public Debt Series No. 1–80, Third Revision, effective January 1, 1990, to read as follows:

PART 351—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES EE

Sec.
351.0 Offering of bonds.
351.1 Governing regulations.
351.2 Description of bonds.
351.3 Registration and issue.
351.4 Limitation on purchases.
351.5 Purchase of bonds.
351.6 Delivery of bonds.
351.7 Payment or redemption.
351.8 Taxation.
351.9 Education savings bond program.
351.1 Reservation as to issue of bonds.
351.11 Waiver.
351.12 Fiscal agents.
351.13 Reservation as to terms of offer.

Appendix—Table 1, EE Bonds Bearing Issue Dates From November 1, 1982 Through October 1, 1986. Table 2, EE Bonds Bearing Issue Dates Beginning November 1, 1986

Authority: 49 Stat. 21, as amended (31 U.S.C. 3105); Pub. L. 100–647, section 6009, Nov. 10, 1988; and 5 U.S.C. 301.

§ 351.0 Offering of bonds.

The Secretary of the Treasury offers for sale to the people of the United States, United States Savings Bonds of Series EE, hereinafter referred to as "Series EE bonds" or "bonds." This offer, effective January 1, 1990, will continue until terminated by the Secretary of the Treasury.

§ 351.1 Governing regulations.

Series EE bonds are subject to the regulations of the Department of the Treasury, now or hereafter prescribed, governing United States Savings Bonds of Series EE and HH, contained in Department of the Treasury Circular, Public Debt Series No. 3–80 (31 CFR Part 353), hereinafter referred to as Circular No. 3–80.

§ 351.2 Description of bonds.

(a) *General.* Series EE bonds are issued only in registered form and are nontransferable.

(b) *Denominations and prices.* Series EE bonds are issued on a discount basis. The denominations and purchase prices are:

Denomination	Purchase price
$50 [1]	$25.00
75 [1]	37.50
100	50.00
200	100.00
500	250.00
1,000	500.00
5,000	2,500.00
10,000	5,000.00

[1] $50 & $75 denomination bonds are not available through payroll savings plans where the participant enrolls therein on or after February 1, 1988.

(c) *Term—original maturity periods.* The issue date of a Series EE bond is the first day of the month in which payment of the issue price is received by an authorized issuing agent. Series EE bonds have "original" maturity periods, also referred to as "initial" maturity periods, as follows:

Issue dates—1st day of:	Original maturity dates—1st day of:	Original terms
Jan. 1980–Oct. 1980	Jan. 1991–Oct. 1991	11 years.
Nov. 1980–Apr. 1981	Nov. 1989–Apr. 1990	9 years.
May. 1981–Oct. 1982	May 1989–Oct. 1990	8 years.
Nov. 1982–Oct. 1986	Nov. 1992–Oct. 1996	10 years.
Nov. 1986, and thereafter	Nov. 1998, and thereafter	12 years.

(d) *Redemption.* A Series EE bond may be redeemed after 6 months from its issue date. The Secretary of the Treasury may not call Series EE bonds for redemption prior to final maturity.

(e) *Investment yield (interest) during original maturity periods—bonds bearing issue dates of November 1, 1982, or thereafter.* The investment yield of a Series EE bond issued on November 1, 1982, or thereafter, from its issue date to each interest accrual date occurring less than 5 years after issue, will be graduated, as shown in Tables 1 and 2 in the Appendix to this Part. Its investment yield from issue date to each semiannual interest accrual date, occurring at 5 years from issue date and thereafter to original maturity will be the guaranteed minimum investment yield or the market-based variable investment yield for such period as the bond is outstanding, whichever produces the greater value, as provided below in paragraphs (e)(1) and (e)(2)of this section.

(1) *Guaranteed minimum investment yield.* The guaranteed minimum investment yield of a bond from its issue date to each semiannual interest accrual date occurring on or after 5 years from issue up to original maturity will be 7.5 percent per annum, compounded semiannually, for a bond bearing an issue date of November 1, 1982, through October 1, 1986, and 6 percent per annum, compounded semiannually, for a bond bearing an issue date on or after November 1, 1986.

(2) *Market-based variable investment yield.* If a Series EE bond is not sooner redeemed, its yield 5 years after its issue date and on each successive semiannual interest accrual date will be determined as follows:

(i) For each 6-month period, starting with the period beginning on May 1, 1982, the average market yield on outstanding marketable Treasury securities with a remaining term to maturity of approximately 5 years during such period will be determined.

(ii) For bonds bearing issue dates of November 1, 1982, through April 1, 1989, the market-based variable investment yield from the issue date of a bond to its semiannual interest accrual date 5 years thereafter will be 85 percent, rounded to the nearest one-fourth of 1 percent, of the arithmetic average of the market yield averages for the ten 6-month periods starting with the 6-month period that most recently ended before such issue date.

(iii) For bonds bearing issue dates of May 1, 1989, or thereafter, the market-based variable investment yield from the issue date to the semiannual interest accrual date 5 years thereafter will be 85 percent, rounded to the nearest one-hundredth of 1 percent, of the arithmetic average of the market yield averages for the ten 6-month periods starting with the 6-month period that most recently ended before such issue date.

(iv) In determining the market-based variable investment yield for a bond from its issue date to each successive semiannual interest accrual date occurring after 5 years from issue up to original maturity, the average market yield for each additional 6-month period will be included in the computation.

(v) The determination by the Secretary of the Treasury, or his delegate, of the average market yields shall be final and conclusive.

Example. For bonds bearing issue dates of November 1, 1982, through April 1, 1983, the market-based variable investment yield from issue date to 5 years will be determined from the ten 6-month market yield averages for the period from May 1, 1982, through April 30, 1987. The market-based variable investment yield from issue to 5½ years will be determined for the period from May 1, 1982, through October 31, 1987. For bonds bearing issue dates of May 1, 1983, to October 1, 1983, the 5 year market-based variable investment yield will be determined for the period from November 1, 1982, through October 31, 1987, and the 5½ year market-based variable investment yield will be determined from November 1, 1982, through April 30, 1988. In each case where a bond is held for 5 years or longer during its original maturity period, its redemption value on the appropriate interest accrual date will be determined from such yield, unless the guaranteed minimum yield, compounded semiannually, as specified in § 351.2(e)(1), from issue to that accrual date results in a higher redemption value.

(f) *Investment yields (interest) during original maturity periods—bonds issued prior to November 1, 1982.* For bonds bearing issue dates of January 1, 1980, through October 1, 1982, the investment yields shall be as follows:

(1) *Guaranteed minimum investment yield.* The guaranteed minimum investment yields on bonds bearing issue dates prior to November 1, 1982, are made available, on request, by the Bureau of the Public Debt, Parkersburg, West Virginia 26106-1328.

(2) *Market-based variable investment yield.* If a bond is held for a period of 5 years after its first semiannual interest accrual period, occurring on or after November 2, 1982, its yield for such period, and to each successive semiannual interest accrual date up to its original maturity, shall be either the guaranteed minimum investment yield specified above in paragraph (f)(1) of this section or the market-based variable investment yield computed as provided in paragraph (e)(2) of this section, whichever produces the greater value, using the appropriate number of 6-month periods. The first such period began on May 1, 1982.

(g) *Extended maturity periods*—(1) *General.* The terms "extended maturity period," "second extended maturity period," and "extended maturity," as used herein, refer to periods of 12 years or less after the original maturity dates of the bonds during which owners may retain them at interest. No special action is required of owners desiring to take advantage of any extensions herein granted.

(2) *Extensions granted.* As described in the charts below, owners of Series EE bonds may retain their bonds for an extended maturity period of 10 years. Owners of Series EE bonds also may retain their bonds for a second extended maturity period having a period such that, if outstanding, interest shall accrue for a term totaling 30 years from the issue date. Each Series EE bond will reach its final maturity and cease to accrue interest 30 years after its issue date.

Issue dates—1st day of:	Original terms	Original maturity dates—1st day of:	Final maturity dates—1st day of:
Jan. 1980-Oct. 1980	11 years	Jan. 1991-Oct. 1991	Jan. 2010-Oct. 2010.
Nov. 1980-Apr. 1981	9 years	Nov. 1989-Apr. 1990	Nov. 2010-Apr. 2011.
May 1981-Oct. 1982	8 years	May 1989-Oct. 1990	May 2011-Oct. 2012.
Nov.1982-Oct. 1986	10 years	Nov. 1992-Oct. 1996	Nov. 2012-Oct. 2016.
Nov. 1986, and thereafter	12 years	Nov. 1998, and thereafter	Nov. 2016, and thereafter.

Issue dates—1st day of:	First extended maturity dates—1st day of:	Years to final maturity	Final maturity dates—1st day of:
Jan. 1980-Oct. 1980	Jan. 2001-Oct. 2001	9 years	Jan. 2010-Oct. 2010.
Nov. 1980-Apr. 1981	Nov. 1999-Apr. 2000	11 years	Nov. 2010-Apr. 2011.
May 1981-Oct. 1982	May 1999-Oct. 2000	12 years	May 2011-Oct. 2012.
Nov. 1982-Oct. 1986	Nov. 2002-Oct. 2006	10 years	Nov. 2012-Oct. 2016.
Nov. 1986, and thereafter	Nov. 2008, and thereafter	8 years	Nov. 2016, and therafter.

[1] At 10 years after original maturity.

(3) *Determination of redemption values during any extended maturity period.* The redemption value of a bond on a given interest accrual date during an extended maturity period or periods will be the higher of the value produced using the applicable guaranteed minimum investment yield or the value produced using the appropriate market-based variable investment yield. The calculation of these yields and the resulting redemption values are described below:

(i) *Guaranteed minimum investment yield and resulting values during an extended maturity period.* A bond may be subject to one guaranteed minimum investment yield during its original maturity period and to another such yield during each of its extended maturity periods. Bonds entering an extended maturity period on or after May 1, 1989, will have a guaranteed minimum investment yield of 6 percent during the extended maturity period. In order to determine values for a bond during its first extended maturity period, the value of the bond at the end of its original maturity period is determined using the guaranteed minimum investment yield applicable to that period. This value is then used as the base upon which interest accrues during the first extended maturity period at the applicable guaranteed minimum

investment yield for that period. The value thus attained at first extended maturity (10 years after original maturity) is then used as the base upon which interest accrues during the second extended maturity period at the applicable guaranteed minimum investment yield for that period. The resulting semiannual values are then compared with the corresponding values determined using the applicable market-based variable investment yields.

(ii) *Market-based variable investment yield and resulting values during an extended maturity period.* For a bond beginning an extended maturity period, the market-based variable investment yield from its first semiannual interest accrual date occurring on or after November l, 1982, or its issue date, whichever is later, to each semiannual interest accrual date occurring on or after November 1, 1989, will be 85 percent, rounded to the nearest one-hundredth of one percent, of the arithmetic average of the market yield averages for the appropriate number of 6-month periods involved, beginning with the period from May l, 1982, or the 6-month period that most recently ended before the issue date, whichever period occurs later. The value of a bond on its first semiannual interest accrual date occurring on or after November l, 1982, or its issue date, whichever is later, is used as the base upon which interest accrues during the extended maturity period at the applicable market-based variable investment yield. As described above, the bond will receive the higher of the two values produced using the applicable market-based variable investment yield and guaranteed minimum investment yield.

(h) *Accrual and payment of interest.* Interest accrues on a Series EE bond and becomes a part of the redemption value which is paid when the bond is cashed. For bonds with issue dates from January 1, 1980, through October 1, 1980, the redemption value increases on the first day of each month from the third through the thirtieth month after issue, and thereafter on the first day of each successive 6-month period. For bonds with issue dates from November 1, 1980, through October 1, 1986, the redemption value increases on the first day of each month from the third through the eighteenth month after issue, and thereafter on the first day of each successive 6-month period. For bonds with issue dates on and after November 1, 1986, the redemption value increases on the first day of each month from the third through the thirtieth month after issue, and thereafter on the first day of each successive 6-month period. The interest on an outstanding bond ceases to accrue 30 years after its issue date.

(i) *Tables of redemption values.* For bonds with issue dates of November 1, 1982, and thereafter, Tables 1 and 2, in the Appendix to this Part, show the established redemption values and investment yields for the first 4½ years after issue and redemption values produced by guaranteed minimum investment yields from 5 years after issue to original maturity. For bonds issued prior to November 1, 1982, tables showing the established redemption values and investment yields for interest accrual dates occurring less than 5 years from the first semiannual interest accrual period starting on or after November 1, 1982, and the guaranteed minimum investment yields and resulting redemption values for interest accrual dates occurring thereafter to original maturity, are made available by the Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328. The market-based variable investment yields for bonds redeemed during each 6-month period, beginning on May 1 and November 1 of each year, are made available prior to each of those dates by the Bureau of the Public Debt, accompanied by tables of the redemption values of bonds for the following 6 months, as determined by applicable market-based variable investment yields or guaranteed minimum investment yields.

§ 351.3 Registration and issue.

(a) *Registration.* Bonds may be registered in the names of natural persons in single ownership, coownership, or beneficiary form. Bonds may also be registered as further set out in Subpart B of circular No. 3–80 (31 CFR part 353). A bond may include "Mail to" instructions in the inscription, followed by a delivery name and address. No rights of ownership are conferred on a designee whose name and address are inscribed on a bond for purposes of delivery only.

(b) *Validity of issue.* A bond is validly issued when it (1) is registered as provided in Circular No. 3–80, and (2) bears an issue date, as well as the validation indicia of an authorized issuing agent.

(c) *Taxpayer identifying number.* The inscription of a bond must include the taxpayer identifying number of the owner or first-named coowner. The taxpayer identifying number of the second-named coowner or beneficiary is not required but its inclusion is desirable. If the bond is being purchased as a gift or award and the owner's taxpayer identifying number is not known, the taxpayer identifying number of the purchaser must be included in the inscription on the bond.

(d) *Restrictions on chain letters.* The issuance of bonds in the furtherance of a chain letter or pyramid scheme is considered to be against the public interest and is prohibited. An issuing agent is authorized to refuse to issue a bond if there is reason to believe that a purchase is in connection with a chain letter and the agent's decision is final.

§ 351.4 Limitation on purchases.

The amount of Series EE bonds which may be purchased in the name of any one person, in any one calendar year, is limited to $30,000 (face amount). Subpart C of Circular No. 3–80 (31 CFR part 353) contains the rules governing the computation of amounts and the special limitation for employee plans.

§ 351.5 Purchase of bonds.

(a) *Payroll plans.* Bonds may be purchased through deductions from the pay of employees of organizations that maintain payroll savings plans. The bonds must be issued by an authorized issuing agent.

(b) *Over-the-counter/mail*—(1) *Through financial institutions.* Bonds registered in the names of individuals in their own right may be purchased through any financial institution, i.e., bank, savings association, etc., qualified as an issuing agent.

(2) *Remittance.* The application for purchase of a bond must be accompanied by the remittance to cover the issue price. Checks or other forms of exchange will be accepted subject to collection. Checks payable by endorsement are not acceptable.

(3) *Payment with savings stamps.* Savings stamps (issued prior to June 30, 1970) will be accepted in payment for Series EE bonds. Preferably, they should be affixed in albums or, if albums are not available, sheets of paper. Submission of stamps in loose form should be avoided.

(c) *Bond-a-month plan.* A depositor of a financial institution qualified as an issuing agent may purchase bonds through a system of regular monthly withdrawals from the depositor's account.

(d) *Employee thrift, savings, vacation, and similar plans.* Bonds registered in the names of trustees of employee plans may be purchased in book-entry form through an authorized Federal Reserve Bank after Bureau of the Public Debt approval for the special limitation under § 353.13 of the regulations set out in Circular No. 3–80.

§ 351.6 Delivery of bonds.

Issuing agents are authorized to arrange for the delivery of Series EE bonds. Mail deliveries are made at the risk and expense of the United States to the address given by the purchaser, if it is within the United States, its territories or possessions, or the Commonwealth of Puerto Rico. No mail deliveries elsewhere will be made, except to residents of Mexico and Canada, who participate in payroll saving plans, and to residents of what was formerly the Panama Canal Zone. Bonds purchased by a citizen of the United States residing abroad will be delivered only to such address in the United States as the purchaser directs.

§ 351.7 Payment or redemption.

(a) *Incorporated banks, savings associations, and other financial institutions.* A financial institution qualified as a paying agent under the provisions of Department of the Treasury Circular No. 750 (31 CFR Part 321) will pay the current redemption value of a Series EE bond presented for payment by an individual whose name is inscribed on the bond as owner, coowner, or beneficiary, if he or she survives the owner, provided: (1) The bond is in order for payment and (2) the presenter establishes his or her identity to the satisfaction of the agent, in accordance with Treasury instructions and identification guidelines, and signs and completes the request for payment.

(b) *Federal Reserve Banks and Branches.* A Federal Reserve Bank or Branch will pay the current redemption value of a Series EE bond presented for payment, provided the bond is in order for payment and the request for payment on the bond is properly signed and certified in accordance with Circular No. 3–80.

§ 351.8 Taxation.

(a) *General.* The increment in value, represented by the difference between the issue price of a Series EE bond and the redemption value received for it, is interest. This interest is subject to all taxes imposed under the Internal Revenue Code of 1954, as amended. The bonds are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all other taxation now or hereafter imposed on the principal or interest by any State, any possession of the United States or any local taxing authority.

(b) *Federal income tax on bonds.* An owner of Series EE bonds may use either of the following two methods for reporting the increase in the redemption value of the bond for Federal income tax purposes:

(1) *Cash basis.* Defer reporting the increase to the year of maturity, redemption, or other disposition, whichever is earlier; or

(2) *Accrual basis.* Elect to report the increase each year as it accrues, in which case the election applies to all Series EE bonds then owned by the taxpayer and those subsequently acquired as well as to any other obligations purchased on a discount basis, such as savings bonds of Series E.

(3) If the method in paragraph (b)(1) of this section is used, the taxpayer may change to the method in paragraph (b)(2) of this section without obtaining permission from the Internal Revenue Service. However, once the election to use the method in paragraph (b)(2) of this section is made, the taxpayer may not change the method of reporting unless he or she obtains permission from the Internal Revenue Service. For further information, the District Director of the taxpayer's district, or the Internal Revenue Service, Washington, DC 20224, should be consulted.

(c) *Tax-deferred exchanges.* Department of the Treasury Circular, Public Debt Series No. 2–80 (31 CFR part 352), authorizes the exchange of Series EE bonds for Series HH bonds, with a continuation of the tax-deferral privilege. The rules governing tax-deferred exchanges are contained in that circular.

(d) *Reissue.* A reissue that affects the rights of any of the persons named on a Series EE bond may have a tax consequence.

§ 351.9 Education savings bond program.

(a) *General.* Section 6009 of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100–647, permits taxpayers to exclude all, or a portion, of the interest earned on savings bonds from their income if the redemption of eligible bonds and the payment of qualified post-secondary educational expenses occur in the tax year for which the exclusion is claimed under the following conditions:

(1) *Eligible bonds.* Interest received on Series EE bonds bearing issue dates on or after January 1, 1990, is eligible for the post-secondary education exclusion. Interest received on bonds bearing issue dates prior to January 1, 1990, is not eligible.

(2) *Registration.* (i) The bonds must be registered in the name of a taxpayer as owner, or in the name of the taxpayer as coowner, and the taxpayer's spouse as the other coowner. The bonds may not be registered in the name of that taxpayer's child, as owner or coowner, and qualify for the exclusion.

(ii) The bonds must be registered in the name of a taxpayer who has attained the age of 24 years at the time of issue. Generally, a taxpayer must be 24 years of age prior to the first day of the month in which the taxpayer purchases the bond, because Series EE bonds bear the issue date of the first day of the month in which purchased.

(3) *Redemption.* The bond must be redeemed by the owner or coowner. It may not be transferred to the educational institution.

(4) *Proceeds.* If the entire amount of the proceeds of the eligible bonds is less than, or equal to, the qualified post-secondary educational expenses incurred by the owner, his or her spouse, or his or her dependent, all interest received is excludable, subject to the limitations in paragraph (a)(7) of this section. If the amount of the proceeds exceeds such qualified expenses, the excludable portion of the interest will be reduced by a pro rata amount.

(5) *Qualified educational expenses.* Qualified educational expenses are limited to tuition and fees required for the enrollment of or attendance by the taxpayer, or the taxpayer's spouse or dependent, at an eligible educational institution. These expenses are calculated net of scholarships, fellowships, employer-provided educational assistance, and other tuition reduction amounts, and must be incurred during the tax year of the redemption of the bonds whose interest is being excluded.

(6) *Eligible educational institutions.* Eligible educational institutions include those defined in Secs. 1201(a) and 481(a)(1) (C) and (D) of the Higher Education Act of 1965, as in effect on October 21, 1988, and in the Carl D. Perkins Vocational Education Act (subparagraph (C) or (D) of Sec. 521(3)), as in effect on October 21, 1988, excluding proprietary institutions. Such eligible institutions are deemed post-secondary institutions, and include vocational schools that meet the standards for participation in Federal financial aid programs, excluding proprietary institutions.

(7) *Eligible taxpayers.* (i) Interest exclusion benefits are graduated and based on the modified adjusted gross income of the taxpayer. For taxpayers filing a joint Federal income tax return, the exclusion graduates downward for modified adjusted gross income between $60,000 and $90,000. For single taxpayers and heads of households, the exclusion is graduated between $40,000 and

$55,000. After 1990, these income limits will be adjusted for inflation.

(ii) Married taxpayers must file a joint return in order to qualify for the exclusion. Married taxpayers filing separate returns will not qualify for the exclusion, regardless of their modified adjusted gross incomes.

(8) *Recordkeeping.* The taxpayer is responsible for maintaining adequate records of bond redemption transactions to support claims for the exclusion, in accordance with applicable rules and regulations of the Internal Revenue Service.

(9) The Internal Revenue Service should be consulted for advice concerning the eligibility and tax treatment of bonds for the income exclusion under the educational savings bond program.

§ 351.10 Reservation as to issue of bonds.

The Commissioner of the Public Debt, as delegate of the Secretary of the Treasury, is authorized to reject any application for Series EE bonds, in whole or in part, and to refuse to issue or permit to be issued any bonds in any case or class of cases, if he deems the action to be in the public interest, and his action in any such respect is final.

§ 351.11 Waiver.

The Commissioner of the Public Debt, as delegate of the Secretary of the Treasury, may waive or modify any provision of this Circular in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship (a) if such action would not be inconsistent with law or equity, (b) if it does not impair any existing rights, and (c) if he is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 351.12 Fiscal agents.

Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury, or his delegate, in connection with the issue, servicing, and redemption of Series EE bonds.

§ 351.13 Reservation as to terms of offer.

The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this offering of bonds.

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Appendix

TABLE 1

EE BONDS BEARING ISSUE DATES FROM NOVEMBER 1, 1982 THROUGH OCTOBER 1, 1986

PERIOD (YEARS AND MONTHS AFTER ISSUE)		(1) REDEMPTION VALUES DURING EACH PERIOD (VALUES INCREASE ON FIRST DAY OF PERIOD)								APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
ISSUE PRICE		$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2500.00	$ 5000.00			
MATURITY VALUE		52.22	78.33	104.44	208.88	522.20	1044.40	5222.00	10444.00			
										(2) FROM ISSUE DATE TO START OF PERIOD	(3) DURING EACH PERIOD	(4) FROM START OF PERIOD TO MATURITY
										PERCENT	PERCENT	PERCENT
A/ 0- 0 TO 0- 2	1/(11/1/82)	$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2500.00	$ 5000.00	----	4.35	7.50
0- 2 TO 0- 3	(1/1/83)	25.18	37.77	50.36	100.72	251.80	503.60	2518.00	5036.00	4.35	3.84	7.56
0- 3 TO 0- 4	(2/1/83)	25.26	37.89	50.52	101.04	252.60	505.20	2526.00	5052.00	4.18	3.83	7.59
0- 4 TO 0- 5	(3/1/83)	25.34	38.01	50.68	101.36	253.40	506.80	2534.00	5068.00	4.09	3.82	7.62
0- 5 TO 0- 6	(4/1/83)	25.42	38.13	50.84	101.68	254.20	508.40	2542.00	5084.00	4.04	4.77	7.66
0- 6 TO 0- 7	(5/1/83)	25.52	38.28	51.04	102.08	255.20	510.40	2552.00	5104.00	4.16	5.71	7.68
0- 7 TO 0- 8	(6/1/83)	25.64	38.46	51.28	102.56	256.40	512.80	2564.00	5128.00	4.38	6.64	7.70
0- 8 TO 0- 9	(7/1/83)	25.78	38.67	51.56	103.12	257.80	515.60	2578.00	5156.00	4.66	7.56	7.71
0- 9 TO 0-10	(8/1/83)	25.94	38.91	51.88	103.76	259.40	518.80	2594.00	5188.00	4.98	6.56	7.71
0-10 TO 0-11	(9/1/83)	26.08	39.12	52.16	104.32	260.80	521.60	2608.00	5216.00	5.14	7.48	7.72
0-11 TO 1- 0	(10/1/83)	26.24	39.36	52.48	104.96	262.40	524.80	2624.00	5248.00	5.35	7.43	7.72
1- 0 TO 1- 1	(11/1/83)	26.40	39.60	52.80	105.60	264.00	528.00	2640.00	5280.00	5.52	6.45	7.72
1- 1 TO 1- 2	(12/1/83)	26.54	39.81	53.08	106.16	265.40	530.80	2654.00	5308.00	5.59	6.41	7.74
1- 2 TO 1- 3	(1/1/84)	26.68	40.02	53.36	106.72	266.80	533.60	2668.00	5336.00	5.65	5.46	7.75
1- 3 TO 1- 4	(2/1/84)	26.80	40.20	53.60	107.20	268.00	536.00	2680.00	5360.00	5.64	6.35	7.77
1- 4 TO 1- 5	(3/1/84)	26.94	40.41	53.88	107.76	269.40	538.80	2694.00	5388.00	5.68	6.32	7.78
1- 5 TO 1- 6	(4/1/84)	27.08	40.62	54.16	108.32	270.80	541.60	2708.00	5416.00	5.72	6.28	7.80
1- 6 TO 2- 0	(5/1/84)	27.22	40.83	54.44	108.88	272.20	544.40	2722.00	5444.00	5.75	6.76	7.81
2- 0 TO 2- 6	(11/1/84)	28.14	42.21	56.28	112.56	281.40	562.80	2814.00	5628.00	6.00	7.25	7.88
2- 6 TO 3- 0	(5/1/85)	29.16	43.74	58.32	116.64	291.60	583.20	2916.00	5832.00	6.25	7.82	7.92
3- 0 TO 3- 6	(11/1/85)	30.30	45.45	60.60	121.20	303.00	606.00	3030.00	6060.00	6.51	8.18	7.93
3- 6 TO 4- 0	(5/1/86)	31.54	47.31	63.08	126.16	315.40	630.80	3154.00	6308.00	6.75	8.88	7.91
4- 0 TO 4- 6	(11/1/86)	32.94	49.41	65.88	131.76	329.40	658.80	3294.00	6588.00	7.02	9.23	7.83
4- 6 TO 5- 0	(5/1/87)	34.46	51.69	68.92	137.84	344.60	689.20	3446.00	6892.00	7.26	9.75	7.70
B/ 5- 0 TO 5- 6	(11/1/87)	36.14	54.21	72.28	144.56	361.40	722.80	3614.00	7228.00	7.51	7.53	7.50
5- 6 TO 6- 0	(5/1/88)	37.50	56.25	75.00	150.00	375.00	750.00	3750.00	7500.00	7.51	7.47	7.50
6- 0 TO 6- 6	(11/1/88)	38.90	58.35	77.80	155.60	389.00	778.00	3890.00	7780.00	7.51	7.51	7.50
6- 6 TO 7- 0	(5/1/89)	40.36	60.54	80.72	161.44	403.60	807.20	4036.00	8072.00	7.51	7.43	7.50
7- 0 TO 7- 6	(11/1/89)	41.86	62.79	83.72	167.44	418.60	837.20	4186.00	8372.00	7.50	7.55	7.51
7- 6 TO 8- 0	(5/1/90)	43.44	65.16	86.88	173.76	434.40	868.80	4344.00	8688.00	7.50	7.46	7.50
8- 0 TO 8- 6	(11/1/90)	45.06	67.59	90.12	180.24	450.60	901.20	4506.00	9012.00	7.50	7.55	7.51
8- 6 TO 9- 0	(5/1/91)	46.76	70.14	93.52	187.04	467.60	935.20	4676.00	9352.00	7.50	7.44	7.50
9- 0 TO 9- 6	(11/1/91)	48.50	72.75	97.00	194.00	485.00	970.00	4850.00	9700.00	7.50	7.51	7.53
9- 6 TO 10- 0	(5/1/92)	50.32	75.48	100.64	201.28	503.20	1006.40	5032.00	10064.00	7.50	7.55	7.55
10- 0 2/	(11/1/92)	52.22	78.33	104.44	208.88	522.20	1044.40	5222.00	10444.00	7.50		

1/ MONTH, DAY, AND YEAR ON WHICH ISSUES OF NOVEMBER 1, 1982 ENTER EACH PERIOD. FOR SUBSEQUENT ISSUE MONTHS ADD THE APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY VALUE IS REACHED 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

A/ THE REDEMPTION VALUES AND INVESTMENT YIELDS SHOWN FOR INTEREST ACCRUAL DATES BEFORE FIVE YEARS AFTER ISSUE ARE THOSE ESTABLISHED UNDER SECTION 351.2(E) OF THIS CIRCULAR.

B/ THE REDEMPTION VALUES AND INVESTMENT YIELDS SHOWN FOR INTEREST ACCRUAL DATES FIVE YEARS AFTER ISSUE AND THEREAFTER REPRESENT THE MINIMUM GUARANTEED INVESTMENT YIELDS PROVIDED BY SECTION 351.2(E)(1) OF THIS CIRCULAR. THESE REDEMPTION VALUES WILL APPLY UNLESS APPLICATION OF THE VARIABLE RATE PRESCRIBED UNDER SECTION 351.2(E)(2) PRODUCES A HIGHER REDEMPTION VALUE.

Appendix

TABLE 2

EE BONDS BEARING ISSUE DATES BEGINNING NOVEMBER 1, 1986

	PERIOD (YEARS AND MONTHS AFTER ISSUE)		(1) REDEMPTION VALUES DURING EACH PERIOD (VALUES INCREASE ON FIRST DAY OF PERIOD)								APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
	ISSUE PRICE		$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2500.00	$ 5000.00			
	MATURITY VALUE		50.82	76.23	101.64	203.28	508.20	1016.40	5082.00	10164.00			
											(2)FROM ISSUE DATE TO START OF PERIOD	(3)DURING EACH PERIOD	(4)FROM START OF PERIOD TO MATURITY
											PERCENT	PERCENT	PERCENT
A/	0- 0 TO 0- 2 1/	(11/1/86)	$25.00	$37.50	$50.00	$100.00	$250.00	$500.00	$2500.00	$ 5000.00	----	4.35	6.00
	0- 2 TO 0- 3	(1/1/87)	25.18	37.77	50.36	100.72	251.80	503.60	2518.00	5036.00	4.35	3.84	6.02
	0- 3 TO 0- 4	(2/1/87)	25.26	37.89	50.52	101.04	252.60	505.20	2526.00	5052.00	4.18	3.83	6.04
	0- 4 TO 0- 5	(3/1/87)	25.34	38.01	50.68	101.36	253.40	506.80	2534.00	5068.00	4.09	3.82	6.05
	0- 5 TO 0- 6	(4/1/87)	25.42	38.13	50.84	101.68	254.20	508.40	2542.00	5084.00	4.04	4.77	6.07
	0- 6 TO 0- 7	(5/1/87)	25.52	38.28	51.04	102.08	255.20	510.40	2552.00	5104.00	4.16	3.79	6.08
	0- 7 TO 0- 8	(6/1/87)	25.60	38.40	51.20	102.40	256.00	512.00	2560.00	5120.00	4.11	4.73	6.10
	0- 8 TO 0- 9	(7/1/87)	25.70	38.55	51.40	102.80	257.00	514.00	2570.00	5140.00	4.19	3.76	6.11
	0- 9 TO 0-10	(8/1/87)	25.78	38.67	51.56	103.12	257.80	515.60	2578.00	5156.00	4.14	4.70	6.12
	0-10 TO 0-11	(9/1/87)	25.88	38.82	51.76	103.52	258.80	517.60	2588.00	5176.00	4.19	4.68	6.14
	0-11 TO 1- 0	(10/1/87)	25.98	38.97	51.96	103.92	259.80	519.60	2598.00	5196.00	4.24	4.66	6.15
	1- 0 TO 1- 1	(11/1/87)	26.08	39.12	52.16	104.32	260.80	521.60	2608.00	5216.00	4.27	4.65	6.16
	1- 1 TO 1- 2	(12/1/87)	26.18	39.27	52.36	104.72	261.80	523.60	2618.00	5236.00	4.30	4.63	6.17
	1- 2 TO 1- 3	(1/1/88)	26.28	39.42	52.56	105.12	262.80	525.60	2628.00	5256.00	4.33	4.61	6.18
	1- 3 TO 1- 4	(2/1/88)	26.38	39.57	52.76	105.52	263.80	527.60	2638.00	5276.00	4.34	4.59	6.19
	1- 4 TO 1- 5	(3/1/88)	26.48	39.72	52.96	105.92	264.80	529.60	2648.00	5296.00	4.36	4.57	6.21
	1- 5 TO 1- 6	(4/1/88)	26.58	39.87	53.16	106.32	265.80	531.60	2658.00	5316.00	4.37	5.48	6.22
	1- 6 TO 1- 7	(5/1/88)	26.70	40.05	53.40	106.80	267.00	534.00	2670.00	5340.00	4.43	4.54	6.22
	1- 7 TO 1- 8	(6/1/88)	26.80	40.20	53.60	107.20	268.00	536.00	2680.00	5360.00	4.44	5.43	6.24
	1- 8 TO 1- 9	(7/1/88)	26.92	40.38	53.84	107.68	269.20	538.40	2692.00	5384.00	4.49	5.41	6.24
	1- 9 TO 1-10	(8/1/88)	27.04	40.56	54.08	108.16	270.40	540.80	2704.00	5408.00	4.53	5.38	6.25
	1-10 TO 1-11	(9/1/88)	27.16	40.74	54.32	108.64	271.60	543.20	2716.00	5432.00	4.57	5.36	6.26
	1-11 TO 2- 0	(10/1/88)	27.28	40.92	54.56	109.12	272.80	545.60	2728.00	5456.00	4.61	5.34	6.27
	2- 0 TO 2- 1	(11/1/88)	27.40	41.10	54.80	109.60	274.00	548.00	2740.00	5480.00	4.64	5.31	6.27
	2- 1 TO 2- 2	(12/1/88)	27.52	41.28	55.04	110.08	275.20	550.40	2752.00	5504.00	4.66	5.29	6.28
	2- 2 TO 2- 3	(1/1/89)	27.64	41.46	55.28	110.56	276.40	552.80	2764.00	5528.00	4.69	5.27	6.29
	2- 3 TO 2- 4	(2/1/89)	27.76	41.64	55.52	111.04	277.60	555.20	2776.00	5552.00	4.71	6.13	6.30
	2- 4 TO 2- 5	(3/1/89)	27.90	41.85	55.80	111.60	279.00	558.00	2790.00	5580.00	4.76	5.22	6.30
	2- 5 TO 2- 6	(4/1/89)	28.02	42.03	56.04	112.08	280.20	560.40	2802.00	5604.00	4.78	6.07	6.31
	2- 6 TO 3- 0	(5/1/89)	28.16	42.24	56.32	112.64	281.60	563.20	2816.00	5632.00	4.82	5.97	6.31
	3- 0 TO 3- 6	(11/1/89)	29.00	43.50	58.00	116.00	290.00	580.00	2900.00	5800.00	5.01	6.76	6.33
	3- 6 TO 4- 0	(5/1/90)	29.98	44.97	59.96	119.92	299.80	599.60	2998.00	5996.00	5.26	7.20	6.31
	4- 0 TO 4- 6	(11/1/90)	31.06	46.59	62.12	124.24	310.60	621.20	3106.00	6212.00	5.50	7.86	6.25
	4- 6 TO 5- 0	(5/1/91)	32.28	48.42	64.56	129.12	322.80	645.60	3228.00	6456.00	5.76	8.18	6.14
B/	5- 0 TO 5- 6	(11/1/91)	33.60	50.40	67.20	134.40	336.00	672.00	3360.00	6720.00	6.00	6.07	6.00
	5- 6 TO 6- 0	(5/1/92)	34.62	51.93	69.24	138.48	346.20	692.40	3462.00	6924.00	6.01	6.01	5.99
	6- 0 TO 6- 6	(11/1/92)	35.66	53.49	71.32	142.64	356.60	713.20	3566.00	7132.00	6.01	5.95	5.99
	6- 6 TO 7- 0	(5/1/93)	36.72	55.08	73.44	146.88	367.20	734.40	3672.00	7344.00	6.00	5.99	6.00
	7- 0 TO 7- 6	(11/1/93)	37.82	56.73	75.64	151.28	378.20	756.40	3782.00	7564.00	6.00	6.03	6.00
	7- 6 TO 8- 0	(5/1/94)	38.96	58.44	77.92	155.84	389.60	779.20	3896.00	7792.00	6.00	5.95	5.99
	8- 0 TO 8- 6	(11/1/94)	40.12	60.18	80.24	160.48	401.20	802.40	4012.00	8024.00	6.00	6.08	6.00
	8- 6 TO 9- 0	(5/1/95)	41.34	62.01	82.68	165.36	413.40	826.80	4134.00	8268.00	6.01	6.00	5.99
	9- 0 TO 9- 6	(11/1/95)	42.58	63.87	85.16	170.32	425.80	851.60	4258.00	8516.00	6.01	5.92	5.98
	9- 6 TO 10- 0	(5/1/96)	43.84	65.76	87.68	175.36	438.40	876.80	4384.00	8768.00	6.00	6.02	6.00
	10- 0 TO 10- 6	(11/1/96)	45.16	67.74	90.32	180.64	451.60	903.20	4516.00	9032.00	6.00	6.02	5.99
	10- 6 TO 11- 0	(5/1/97)	46.52	69.78	93.04	186.08	465.20	930.40	4652.00	9304.00	6.00	6.02	5.98
	11- 0 TO 11- 6	(11/1/97)	47.92	71.88	95.84	191.68	479.20	958.40	4792.00	9584.00	6.00	5.93	5.96
	11- 6 TO 12- 0	(5/1/98)	49.34	74.01	98.68	197.36	493.40	986.80	4934.00	9868.00	6.00	6.00	6.00
	12- 0 2/	(11/1/98)	50.82	76.23	101.64	203.28	508.20	1016.40	5082.00	10164.00	6.00		

1/ MONTH, DAY, AND YEAR ON WHICH ISSUES OF NOVEMBER 1, 1986 ENTER EACH PERIOD. FOR SUBSEQUENT ISSUE MONTHS ADD THE APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY VALUE IS REACHED 12 YEARS AND 0 MONTHS AFTER ISSUE DATE.

A/ THE REDEMPTION VALUES AND INVESTMENT YIELDS SHOWN FOR INTEREST ACCRUAL DATES BEFORE FIVE YEARS AFTER ISSUE ARE THOSE ESTABLISHED UNDER SECTION 351.2(E) OF THIS CIRCULAR.

B/ THE REDEMPTION VALUES AND INVESTMENT YIELDS SHOWN FOR INTEREST ACCRUAL DATES FIVE YEARS AFTER ISSUE AND THEREAFTER REPRESENT THE MINIMUM GUARANTEED INVESTMENT YIELDS PROVIDED BY SECTION 351.2(E)(1) OF THIS CIRCULAR. THESE REDEMPTION VALUES WILL APPLY UNLESS APPLICATION OF THE VARIABLE RATE PRESCRIBED UNDER SECTION 351.2(E)(2) PRODUCES A HIGHER REDEMPTION VALUE.

[FR Doc. 90-233 Filed 1-2-90; 8:45 am]

BILLING CODE 4810-10-C

31 CFR Part 353

[Dept. of the Treasury. Circ., Public Debt Series No. 3-80]

Regulations Governing United States Savings Bonds, Series EE and HH

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The amendments reflect (1) a change in the rule for the inscription of Series EE bonds purchased as gifts, and (2) the adoption of a delivery inscription to meet the processing requirements of bonds issued under the Regional Delivery System (RDS), the Treasury's new program for issuing, through regional sites, bonds purchased in over-the-counter transactions.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Dean A. Adams, Assistant Chief Counsel, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 420–6505.

SUPPLEMENTARY INFORMATION: Regulations governing Series EE and HH savings bonds, contained in Department of the Treasury Circular, Public Debt Series No. 3–80 (31 CFR part 353), provide that a bond purchased as a gift for a person whose taxpayer identifying number (i.e., social security number) is not known, must be inscribed with the purchaser's taxpayer identifying number and the word "GIFT."

Section 353.5(c) of part 353 has been amended in two ways. First, the requirement, that the word "GIFT" be shown on a bond purchased for such purpose when inscribed with the purchaser's taxpayer identifying number, has been eliminated. The taxpayer identifying number of the purchaser, however, must still be provided if the donee's number is not known. This means that Series EE bonds, purchased as gifts over-the-counter and issued under the Regional Delivery System (RDS), the Treasury's new program of issuing through regional processing sites, need no longer include "GIFT." Agents that continue to issue gift bonds prior to the implementation of RDS in their districts are encouraged to forego use of the word "GIFT", but are not required to do so.

Second, § 353.5(c) has been amended to include a provision for inscribing delivery instructions. This change is particularly helpful for RDS-issued bonds. It means that a delivery name and address may be placed on bonds purchased as gifts. The amendment makes clear that no rights of ownership are conferred to the "Mail to" designee.

Procedural Requirements

Because this final rule relates to public contracts, the notice and public comment and delayed effective date provisions of the Administrative Procedure Act are inapplicable pursuant to 5 U.S.C. 553(a)(2). This final rule is not a major rule as defined in Executive Order 12291, "Federal Regulations." A regulatory impact analysis is, therefore, not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

List of Subjects in 31 CFR Part 353

Bonds, Government Securities.

Dated: December 29, 1989.

Gerald Murphy,
Fiscal Assistant Secretary.

31 CFR chapter II is amended as follows:

Part 353, as contained in Department of the Treasury Circular, Public Debt Series No. 3–80, as amended, is being further amended, effective January 1, 1990, as set forth below:

PART 353—REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS SERIES EE AND HH

1. The authority for part 353 continues to read as follows:

Authority: Sec. 22 of the Second Liberty Bond Act, as amended, 49 Stat. 21, as amended (31 U.S.C. 3105); Sec. 8 of Act of July 8, 1937, as amended, 50 Stat. 481, as amended (31 U.S.C. 3125); 5 U.S.C. 301, unless otherwise noted.

2. Paragraph (c) of 353.5 is revised as follows:

§ 353.5 Registration.

* * * * *

(c) *Inscription of bonds purchased as gifts.* If the bonds are purchased as gifts, awards, prizes, etc., and the taxpayer identifying number of the intended owners is not known, the purchaser's number must be furnished. Bonds so inscribed will not be associated with the purchaser's own holdings. A bond registered in the name of a purchaser with another person as coowner or beneficiary is not considered a gift or an award. If the purchaser so requests, a bond may be inscribed to provide a "Mail to" instruction, followed by a delivery name and address. No rights of ownership are conferred on such designee.

* * * * *

[FR Doc. 90-234 Filed 1-2-90; 8:45 am]

BILLING CODE 4810-10-M

federal register

Friday
January 5, 1990

Part IV

Department of Education

Privacy Act of 1974; System of Records; Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education publishes this notice of a new system of records known as the Education Department Office of Inspector General (ED/OIG) Non-Federal Auditor Referral File. This notice includes the routine uses for the information contained in the system of records. The new system will provide essential support for ED/OIG audit activities, enabling the OIG to monitor more closely the quality and reliability of non-Federal audits of the Department's programs and operations. The Department seeks comments on the proposed routine uses of this system.

DATES: Comments on proposed routine uses must be submitted by February 5, 1990. The Department filed a report of the new system of records with the Chairman, Committee on Governmental Affairs, United States Senate; the Chairman, Committee on Government Operations, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, on December 28, 1989. This system of records will become effective 60 days after the report for the system of records was sent to these parties, unless OMB gives specific notice within 60 days that the system is not approved for implementation. Both the 30-day time period for comments and the OMB review period must end before this system becomes effective.

ADDRESSES: Address comments to the Assistant Inspector General for Policy, Planning and Management Services, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., Mail Stop 1510, Washington, DC 20202. Telephone: (202) 453-4020.

FOR FURTHER INFORMATION CONTACT: Assistant Inspector General for Audit Services, Office of Inspector General, U.S. Department of Education, Room 4200 Switzer Building, 330 C Street, SW., Washington, DC 20202. Telephone: (202) 732-5600.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 requires the Department to publish in the **Federal Register** this notice of a new system of records. 5 U.S.C. 552a(e) (4) and (11). The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) at 34 CFR Part 5b.

Under the Inspector General Act of 1978, Federal Inspectors General, including the Education Department Inspector General, are responsible for assuring that any work performed by non-Federal auditors relating to programs and operations of the relevant Federal agency complies with standards established by the Comptroller General. Inspectors General are specifically required to see that work performed by non-Federal auditors complies with applicable standards.

The system of records described in this notice will consist of records containing specific information on non-Federal auditors who have audited federally assisted education programs and whom the ED/OIG has referred to State boards of accountancy or professional organizations for violations of generally accepted auditing standards or generally accepted government auditing standards. This information will be used to assist the ED/OIG and other Federal Inspectors General in fulfilling specific statutory responsibilities under the Inspector General Act of 1978.

At its inception, the system will contain information on approximately 44 individuals, this being the number of non-Federal auditors currently known to have been formally referred by the ED/OIG to State boards of accountancy or professional organizations for violations of accounting standards. These referrals are made by formal notice signed by the Assistant Inspector General for Audit Services (AIGA). Based on past experience, subsequent growth in the number of individuals on whom information is placed in the system may be at an estimated 10 to 15 per year. Personal data on individuals will be maintained only to the extent that such information is considered necessary by the Inspector General to ensure the system's capacity to carry out its intended functions.

Until this new system of records known as the Non-Federal Auditor Referral File is effective, information on the approximately 44 non-Federal auditors referred for violations of auditing standards is being maintained in general files from which information cannot be retrieved by name or personal identifier.

Because of the nature of the requirements established and procedures used for storing, retrieving, and disclosing records, and of the safeguards put in place against unauthorized access, it is highly unlikely that the privacy of any individual could be violated with respect to information maintained on such individual in this system of records. These requirements, procedures and precautions are described under the headings ROUTINE USES, RETRIEVABILITY and SAFEGUARDS.

INVITATION TO COMMENT:

Interested persons are invited to submit comments and recommendations regarding the proposed routine uses in this system of records. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4200 Switzer Building, 330 C Street, SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Dated: December 28, 1989.

James B. Thomas, Jr.,

Inspector General.

The Department publishes notice of a new system of records to read as follows:

18-10-0003

SYSTEM NAME:

ED/OIG Non-Federal Auditor Referral File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Education, Office of Inspector General, 330 C Street, SW., Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Auditors not employed by the Federal government whom the Office of Inspector General has referred to State boards of accountancy or professional associations for violations of generally accepted auditing standards or generally accepted government auditing standards in connection with audits of federally assisted education programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to the audit activity which led to the referral action, including the referral documents; and records on the status of each referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended (5 U.S.C. Appendix 3, 4(a)(1) and 4(b)(1)(C)).

PURPOSE:

This system of records is maintained for the general purpose of enabling the

ED/OIG to fulfill the requirements of section (4)(b)(1)(C) of the Inspector General Act of 1978, 5 U.S.C. Appendix 3, 4(b)(1)(C), which requires Federal Inspectors General, including the ED Inspector General, to "take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General * * *" Records are used to document OIG actions with regard to open and closed referrals by the ED/OIG; to produce statistical data; and to share information with Federal, State and professional organizations which are also responsible for maintaining audit standards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

As provided in the Education Department's Privacy Act regulations (34 CFR 5b.1(j)), the following routine uses are authorized without the consent of the individual, but only for a purpose which is compatible with the purpose for which the record was collected:

(1) *Audit oversight and referral action disclosure.* Disclosure of a record from this system of records may be made to other Federal OIGs, the General Accounting Office, State agencies responsible for audit oversight, and the American Institute of Certified Public Accountants to make referrals regarding inadequate audits performed by independent auditors, to track the result of proceedings against those auditors, and to inform these agencies if prior referrals have been made under this routine use.

(2) *Debarment and suspension disclosure.* A record from this system of records may be disclosed to the appropriate enforcement officials of this or another Federal agency, as authorized under section 3 of Executive Order 12549, if the Inspector General determines that an auditor should be referred for debarment or suspension under the standards in 34 CFR Part 85.

(3) *Engagement disclosure.* A record from this system of records may be disclosed to a contractor or grantee of the Department or other participant in Department programs which may be contemplating engaging the firm or individual named in the record to perform auditing or related services pertaining to federally assisted education programs, unless the entities to which the Assistant Inspector General for Audit Services has made a referral under routine use number 1, decline to take action against the auditor or act to exonerate the auditor.

(4) *Enforcement disclosure.* In the event that this system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the Department may refer the record as a routine use to the appropriate agency, whether Federal, foreign, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

(5) *FOIA advice disclosure.* In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(6) *Hiring disclosure*—(a) *For hires by ED.* A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee to perform audit services, the issuance of a security clearance, or the letting of a contract to perform audit services.

(b) *For hires by other federal agencies.* A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee to perform audit services, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract to perform audit services, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the request is relevant to the performance of audit services and necessary to the requesting agency's decision on the matter.

(7) *Subpoena disclosure.* Where Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available, provided the disclosure is consistent with the purposes for which the record was collected.

(8) *Litigation disclosure*—(a) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the ligitation, or has an interest in the litigation:

(i) The Department or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; or

(iv) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to a court or adjudicative body.* If the Department determines that disclosure of certain records to a court or adjudicative body before which the Department is authorized to appear is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the court or adjudicative body, or to opposing counsel or witnesses, in the course of the litigation or related settlement proceedings. Such disclosure may be made in the event that one of the parties listed below is a party to litigation, or has an interest in such litigation:

(i) The Department or any component of the Department;

(ii) Any employee of the agency in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(iv) The United States, where the agency determines that litigation is likely to affect the agency or any of its components.

(9) *Congressional member disclosure.* The Department may disclose personally identifiable information from this system of records to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(10) *Employee conduct disclosure.* If a record maintained by the Department is relevant to an employee discipline or competence determination proceeding of another agency of the Federal government, the Department may disclose the record as a routine use in the course of the proceeding.

(11) *Contract disclosure.* When the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system, relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual.

SAFEGUARDS:

Access is restricted to authorized OIG staff members on a need-to-know basis. Records are secured in file cabinets and are locked in offices after office hours.

RETENTION AND DISPOSAL:

Records are continually updated and are kept until seven years after the date of final action by the State regulatory board or the professional association, whichever is later. Records are then shredded mechanically.

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Audit Services, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-1550.

NOTIFICATION PROCEDURE:

Individuals wishing to know if they are named in this system of records must submit a written request to the system manager. Requests must reasonably specify the system of records containing the information and the particular record contents being sought. For a complete statement of notification procedures, see the Department's Privacy Act regulations, 34 CFR 5b.5.

RECORD ACCESS PROCEDURE:

Individuals wishing to gain access to a record in this system of records must submit a written request to the system manager. Requests must reasonably specify the system of records containing the information, the particular record contents being sought, and the reason for the request. For a complete statement of notification procedures, see the Department's Privacy Act regulations, 34 CFR 5b.5.

CONTESTING RECORD PROCEDURE:

Individuals desiring to contest information contained in a record in this system of records should contact the system manager. Requests must be made either in writing or in person, and must specify: (1) The system of records from which the record is to be retrieved; (2) the particular record which the requestor is seeking to amend; (3) whether a deletion, an addition, or a substitution is being sought; and (4) the reason(s) for the requested change(s). Requestors may wish to include in their requests any appropriate documentation supporting the requested changes(s). For a complete statement of contesting record procedures, see the Department's Privacy Act regulations, 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information contained in the system will be obtained principally from OIG employees. Information regarding the status of referral actions will be obtained from the appropriate State licensing board and professional organizations to which the referral was made.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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BILLING CODE 4000-01-M

federal register

Friday
January 5, 1990

Part V

Federal Reserve System

12 CFR Parts 208 and 225

Capital Adequacy Guidelines; Proposed Rule

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulation H, Regulation Y; Docket No. R-0683]

Capital; Capital Adequacy Guidelines

December 29, 1989.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed guidelines.

SUMMARY: When the Board of Governors of the Federal Reserve System ("Board") issued final risk-based capital guidelines on January 19, 1989, it indicated that the existing 5.5 percent and 6 percent primary and total capital to total assets (leverage) ratios would stay in effect at least until the end of 1990, when the interim minimum risk-based capital ratios take effect. The Board also indicated that it would consider proposing a revised leverage constraint that, if adopted, would replace the existing leverage guidelines. It was contemplated that the definition of capital for the new leverage guidelines would be consistent with the risk-based capital definition.

The Board is now proposing for public comment transition capital guidelines to be applied through the end of 1990, as well as guidelines for a new leverage constraint. The Board believes that these steps, taken together, should assist state-chartered member banks and bank holding companies (collectively "banking organizations") in formulating their capital planning process and in strengthening their capital base.

Under the proposal, a banking organization may choose up to the end of 1990 to conform to either the existing minimum capital adequacy ratios (5.5 percent primary capital and 6 percent total capital to total assets) or to the 7.25 percent year-end 1990 risk-based capital standard. In addition, the Board is proposing to establish and apply during this period a minimum ratio of 3 percent Tier 1 capital to total assets (leverage ratio). For leverage purposes, Tier 1 would be defined consistent with the year-end 1992 risk-based capital guidelines.

The Board is also proposing to drop the existing 5.5 percent primary and 6.0 percent total capital to total assets leverage ratios after year-end 1990. The 3 percent Tier 1 leverage ratio would then constitute the minimum capital to total assets standard for banking organizations.

Under the Board's proposal, these standards would be minimum requirements. Any institution operating at or near these levels would be expected to have well-diversified risk, including no undue interest rate risk exposure, excellent asset quality, high liquidity, good earnings and, in general, would have to be considered a strong banking organization, rated composite 1 under the appropriate bank or bank holding company rating system. Any institution experiencing or anticipating significant growth would be expected to maintain capital well above the minimum levels as has been the case in the past. For example, most such banking organizations have generally operated at capital levels ranging from 100 to 200 basis points above the stated minimums. Higher capital ratios could be required if warranted by the particular circumstances or risk profiles of individual banking organizations. In all cases, banking institutions should hold capital commensurate with the level and nature of all of the risks, including the volume and severity of problem loans, to which they are exposed.

Whenever appropriate, in particular when an organization is undertaking expansion, seeking to engage in new activities or otherwise facing unusual or abnormal risks, the Board will continue to consider, on a case-by-case basis, the level of an organization's tangible Tier l leverage ratio (after deducting all intangibles) in making an overall assessment of capital. This is consistent with the Federal Reserve's risk-based capital guidelines and long-standing Board policy and practice under the current leverage guidelines. Organizations experiencing growth, whether internally or by acquisition, are expected to maintain strong capital positions substantially above minimum supervisory levels, without significant reliance on intangible assets.

DATE: Comments should be submitted on or before March 9, 1990.

ADDRESS: Comments, which should refer to Docket No. R-0683, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary; or delivered to room B-2223, Eccles Building, between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room B-1122 between 9:00 a.m. and 5:00 p.m., except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Richard Spillenkothen, Deputy Associate Director (202/452-2594), Roger Cole, Assistant Director (202/452-2618), Rhoger H. Pugh, Manager (202/728-5883), or Norah Barger, Senior Financial Analyst (202/452-2402), Division of Banking Supervision and Regulation, Board of Governors; Michael J. O'Rourke, Senior Attorney (202/452-3288) or Mark J. Tenhundfeld, Attorney (202/452-3612), Legal Division, Board of Governors; or Donald E. Schmid, Manager (212/720-6611) or Manuel J. Schnaidman, Senior Financial Analyst (212/720-6710), Federal Reserve Bank of New York. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Reserve's risk-based capital guidelines adopted January 27, 1989 (54 FR 4186) set forth an interim target risk-based ratio effective year-end 1990 and a final risk-based standard effective year-end 1992. In issuing its risk-based capital guidelines, the Board indicated that the existing 5.5 and 6.0 percent primary and total capital to total assets (leverage) ratios would stay in effect, at least until the end of 1990. A principal reason for this was to retain a capital constraint until the interim minimum risk-based capital ratios take effect.

The Board also indicated that even after minimum risk-based capital ratios become effective, retention of an overall leverage constraint might be deemed appropriate because the risk-based capital framework does not incorporate a comprehensive measure of interest rate risk. A minimum ratio of capital to total assets would help to address this potential problem by imposing an overall limitation on the extent to which a banking organization could leverage its equity capital base.

In addition to interest rate risk, capital ratios may also not take full or explicit account of certain other risk factors that can affect a banking organization's risk profile. These factors include funding and market risks; investment or loan portfolio concentrations; asset quality; and the adequacy of internal policies, systems, and controls. These factors, which must be taken into account in determining the overall risk profile and capital adequacy of a banking organization, also suggest the need to generally encourage banking organizations to operate well above minimum supervisory ratios.

In issuing its risk-based capital guidelines, the Board indicated that retention of the existing leverage ratios would provide an element of stability during the risk-based capital transition period. The Board further stated that if retention of an overall leverage

standard were deemed appropriate in the long-run, the Federal Reserve would consider replacing the existing primary and total capital to total assets leverage ratios with a standard that incorporates a definition of capital that is consistent with the definitions contained in the risk-based capital framework. At the time, the Board indicated that a leverage standard based upon a revised definition of capital, and used in conjunction with a strong risk-based capital requirement, could be set at a level different from the existing leverage standard it would replace.

The Board is now proposing for public comment transition capital guidelines to be applied through the end of 1990, as well as guidelines for a new leverage constraint which the Board believes should replace the existing leverage guidelines at the end of 1990. Taken together, these steps should assist banking organizations in their capital planning process and, where necessary, their efforts to raise additional capital and strengthen their capital base.

II. Proposed Transition and Leverage Standards

A. Transition Standards

The Board is proposing that during the first phase of the risk-based capital transition period, which ends at year-end 1990, a banking organization may conform to either the existing minimum capital adequacy ratios of 5.5 percent primary capital and 6 percent total capital to total assets, or to the 7.25 percent year-end 1990 minimum risk-based capital standard. It should be emphasized that banking organizations are not required to meet the interim risk-based standard prior to its year-end 1990 effective date. Rather, organizations have the option of complying with the risk-based standard during 1990 in lieu of meeting the existing primary and total capital adequacy guidelines. Regardless of which of these options a banking organization chooses, during this period banking organizations would also have to meet the new proposed leverage standard set forth below.

B. New Leverage Standard

The Board is also proposing to establish and apply during 1990 and thereafter a minimum Tier 1 capital to total assets (leverage) ratio of 3 percent. For this purpose, the definition of Tier 1 capital for year-end 1992, as set forth in the risk-based capital guidelines, will be used.[1] Total assets would be defined for this purpose as total consolidated assets (defined net of the allowance for loan and lease losses), less goodwill and any other intangible assets or investments in subsidiaries that the primary regulator determines should be deducted from Tier 1 capital on a case-by-case basis.

Finally, the Board is also proposing that at the end of 1990 the existing leverage ratios, that is, the 5.5 percent and 6.0 percent primary and total capital to total assets leverage ratios, would be dropped. The 3 percent Tier 1 capital to total assets ratio would then constitute the leverage standard for banking organizations, and would be used thereafter in conjunction with the risk-based ratio in determining the overall capital adequacy of banking organizations.

The proposed Tier 1 leverage ratio differs in a number of respects from the current primary and total capital ratios as defined under the Federal Reserve's existing leverage guidelines. For example, primary capital includes the allowance for loan and lease losses (without limitation), and total capital includes limited amounts of subordinated debt. Neither of these elements, both of which are deemed to be Tier 2 components under the risk-based capital framework, is included in the definition of capital for the newly proposed Tier 1 leverage ratio. Moreover, the current primary and total capital leverage standards do not contain an absolute minimum for the level of permanent shareholders' equity in relation to assets—a minimum that is established by the proposed Tier 1 leverage standard. Thus, the proposed Tier 1 leverage ratio reflects the amount of core equity that is available to support unanticipated losses—a key prudential measure for determining the health of individual banking organizations. In addition to these benefits, adoption of Tier 1 for the purpose of comparing capital to total assets will have the advantage of bringing the definition of capital for leverage purposes into line with the definition of capital for risk-based capital purposes.

The Board emphasizes that in all cases, the standards set forth above are supervisory minimums. An institution operating at or near these levels is expected to have well-diversified risk, including no undue interest rate risk exposure; excellent asset quality; high liquidity; good earnings; and in general be considered a strong banking organization, rated composite 1 under the CAMEL rating system for banks or the BOPEC rating system for bank holding companies. Institutions with high or inordinate levels of risk are expected to operate well above minimum capital standards. As has been the case in the past, institutions experiencing or anticipating significant growth are also expected to maintain capital well above the minimum levels. For example, most such banking organizations generally have operated at capital levels ranging from 100 to 200 basis points above the stated minimums. Higher capital ratios could be required if warranted by the particular circumstances or risk profiles of individual banking organizations. In all cases, banking institutions should hold capital commensurate with the level and nature of all of the risks, including the volume and severity of problem loans, to which they are exposed.

Whenever appropriate, in particular when an organization is undertaking expansion, seeking to engage in new activities or otherwise facing unusual or abnormal risks, the Board will continue to consider, on a case-by-case basis, the level of an organization's tangible Tier 1 leverage ratio (after deducting all intangibles) in making an overall assessment of capital. This is consistent with the Federal Reserve's risk-based capital guidelines and long-standing Board policy and practice under the current leverage guidelines. Organizations experiencing growth, whether internally or by acquisition, are expected to maintain strong capital positions substantially above minimum supervisory levels, without significant reliance on intangible assets.

III. Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe that adoption of this proposal would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory

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[1] At the end of 1992, Tier 1 capital for state member banks includes common equity, minority interests in equity accounts of consolidated subsidiaries, and qualifying noncumulative perpetual preferred stock, less goodwill. It excludes any other intangible assets and investments in subsidiaries that the Federal Reserve determines should be deducted from capital for supervisory purposes on a case-by-case basis. For bank holding companies, Tier 1 capital at the end of 1992 includes common equity, minority interests in equity accounts of consolidated subsidiaries, and qualifying cumulative and noncumulative perpetual preferred stock. (Perpetual preferred stock is limited to 25 percent of Tier 1 capital.) In addition, Tier 1 excludes goodwill as well as any other intangibles and investments in subsidiaries that the primary regulator determines should be deducted from capital on a case-by-case basis. (This summary of Tier 1 capital definitions is purely illustrative in nature. Comprehensive Tier 1 capital definitions are set forth in Appendix A to part 208 of the Board's Regulation H for state member banks and in Appendix A to part 225 of the Board's Regulation Y for bank holding companies.)

Flexibility Act (5 U.S.C. 601 et seq.). In addition, consistent with current policy, these guidelines generally will not apply to bank holding companies with consolidated assets of less than $150 million. Moreover, rather than requiring all banking organizations to raise additional capital, the guidelines are directed at institutions whose capital positions are less than fully adequate in relation to their risk and leverage profiles.

List of Subjects

12 CFR Part 208

Banks, Banking, Capital adequacy, Federal Reserve System, Reporting and recordkeeping requirements, State member banks.

12 CFR Part 225

Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, State member banks.

For the reasons set forth in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)), and section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), the Board proposes to amend 12 CFR parts 208 and 225 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 continues to read as follows:

Authority: Sections 9, 11(a), 11(c), 19, 21, 25, and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321–338, 248(a), 248(c), 461, 481–486, 601, and 611, respectively); sections 4 and 13(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814 and 1923(j), respectively); section 7(a) of the International Lending Supervision Act of 1978 (12 U.S.C. 3105); sections 907–910 of the International Banking Act of 1983 (12 U.S.C. 3906–3909); sections 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78*l*(i), 78*l*–4(c)(5), 78q, 78q–1, and 78w, respectively); and section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927.

2. Section 208.13 is revised to read as follows:

§ 208.13 Capital adequacy.

The standards and guidelines by which the capital adequacy of state member banks will be evaluated by the Board are set forth in Appendix A to part 208 for risk-based capital purposes, and, with respect to the ratios relating capital to total assets, in Appendix B to part 208 and in Appendix B to the Board's Regulation Y, 12 CFR part 225.

Appendix A—[Amended]

3. Footnote 1 to *"I. Overview" of* Appendix A to part 208 is revised to read as follows:

[1] Supervisory ratios that relate capital to total assets for state member banks are outlined in Appendix B of this part and in Appendix B to part 225 of the Federal Reserve's Regulation Y, 12 CFR part 225.

4. The last sentence of the first paragraph to *"IV. Minimum Supervisory Ratios and Standards"* is removed; a new paragraph is added immediately following the first paragraph; the existing second paragraph now becomes the third paragraph and remains unchanged. The new second paragraph reads as follows:

Institutions with high or inordinate levels of risk are expected to operate well above minimum capital standards. Banks experiencing or anticipating significant growth are also expected to maintain capital well above the minimum levels. For example, most such institutions generally have operated at capital levels ranging from 100 to 200 basis points above the stated minimums. Higher capital ratios could be required if warranted by the particular circumstances or risk profiles of individual banks. In all cases, banks should hold capital commensurate with the level and nature of all of the risks, including the volume and severity of problem loans, to which they are exposed.

5. A second paragraph is added to "IV. B. Transition Arrangements" of Appendix A to part 208 to read as follows:

Through year-end 1990 banks have the option of complying with the minimum 7.25 percent year-end 1990 risk-based capital standard in lieu of the minimum 5.5 percent primary and 6 percent total capital to total assets capital ratios set forth in Appendix B to part 225 of the Federal Reserve's Regulation Y. In addition, as more fully set forth in Appendix B to this part, banks are expected to maintain a minimum ratio of 3 percent Tier 1 capital to total assets during this transition period.

6. Appendix B is added after "Attachment VI.—Summary" to part 208 to read as set forth below.

Appendix B to Part 208—Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure

I. Overview

The Board of Governors of the Federal Reserve System has adopted a minimum ratio of Tier 1 capital to total assets to assist in the assessment of the capital adequacy of state member banks.[1] The principal objective of this measure is to place a constraint on the maximum degree to which a state member bank can leverage its equity capital base.

The guidelines apply to all state member banks on a consolidated basis and are to be used in the examination and supervisory process as well as in the analysis of applications acted upon by the Federal Reserve. The Board will review the guidelines from time to time and will consider the need for possible adjustments in light of any significant changes in the economy, financial markets, and banking practices.

II. The Tier 1 Leverage Ratio

The Board has established a minimum level of Tier 1 capital to total assets of 3 percent. An institution operating at or near these levels is expected to have well-diversified risk, including no undue interest rate risk exposure; excellent asset quality; high liquidity; good earnings; and in general be considered a strong banking organization, rated composite 1 under the CAMEL rating system of banks. Institutions not meeting these characteristics, as well as institutions with supervisory, financial, or operations weaknesses, are expected to operate well above minimum capital standards. Institutions experiencing or anticipating significant growth also are expected to maintain capital well above the minimum levels. For example, most such banks generally have operated at capital levels ranging from 100 to 200 basis points above the stated minimums. Higher capital ratios could be required if warranted by the particular circumstances or risk profiles of individual banks. In all cases, banking institutions should hold capital commensurate with the level and nature of all of the risks, including the volume and severity of problem loans, to which they are exposed.

A bank's Tier 1 leverage ratio is calculated by dividing its Tier 1 capital (the numerator of the ratio) by its average total consolidated assets (the denominator of the ratio). The ratio will also be calculated using period-end assets whenever necessary on a case-by-case basis. For the purpose of this leverage ratio, the definition of Tier 1 capital for year-end 1992 as set forth in the risk-based capital guidelines contained in Appendix A of this Part will be used.[2] Average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the bank's Reports of Condition and Income ("Call Report"), less goodwill and any other intangible assets and investments in subsidiaries that the Federal Reserve determines should be deducted from Tier 1 capital on a case-by-case basis.[3]

[1] Supervisory risk-based capital ratios that relate capital to weighted risk assets for state member banks are outlined in Appendix A to this part.

[2] At the end of 1992, Tier 1 capital for state member banks includes common equity, minority interests in equity accounts of consolidated subsidiaries, and qualifying noncumulative perpetual preferred stock, less goodwill. In general, no other deductions from capital are made automatically. However, the Federal Reserve may, on a case-by-case basis, exclude certain other intangibles and investments in subsidiaries as appropriate.

[3] Deductions from Tier 1 capital and other adjustments are discussed more fully in section II.B. of Appendix A to this part.

Whenever appropriate, in particular when a bank is undertaking expansion, seeking to engage in new activities or otherwise facing unusual or abnormal risks, the Board will continue to consider, on a case-by-case basis, the level of an individual bank's tangible Tier 1 leverage ratio (after deducting all intangibles) in making an overall assessment of capital. This is consistent with the Federal Reserve's risk-based capital guidelines and long-standing Board policy and practice with regard to leverage guidelines. Banks experiencing growth, whether internally or by acquisition, are expected to maintain strong capital positions substantially above minimum supervisory levels, without significant reliance on intangible assets.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909.

Appendix A—[Amended]

2. Footnote 1 to "*I. Overview*" of Appendix A to part 225 is revised to read as follows:

[1] Supervisory ratios that relate capital to total assets for bank holding companies are outlined in Appendices B and D of this part.

3. The last sentence of the first paragraph to "*IV. Minimum Supervisory Ratios and Standards*" is removed; a new paragraph is added immediately following the first paragraph; the existing second paragraph now becomes the third paragraph and remains unchanged. The new second paragraph reads as follows:

Institutions with high or inordinate levels of risk are expected to operate well above minimum capital standards. Banking organizations experiencing or anticipating significant growth are also expected to maintain capital well above the minimum levels. For example, most such organizations generally have operated at capital levels ranging from 100 to 200 basis points above the stated minimums. Higher capital ratios could be required if warranted by the particular circumstances or risk profiles of individual banking organizations. In all cases, organizations should hold capital commensurate with the level and nature of all of the risks, including the volume and severity of problem loans, to which they are exposed.

4. A second paragraph is added to "IV. B. Transition Arrangements" of Appendix A to part 225 to read as follows:

Through year-end 1990 banking organizations have the option of complying with the minimum 7.25 percent year-end 1990 risk-based capital standard in lieu of the minimum 5.5 percent primary and 6 percent total capital to total assets ratios set forth in Appendix B of this Part. In addition, as more fully set forth in Appendix D to this Part, banking organizations are expected to maintain a minimum ratio of 3 percent Tier l capital to total assets during this transition period.

Appendix B—[Amended]

5. Three new sentences are added to the end of the first paragraph of Appendix B to part 225 to read as follows:

* * * In this regard, the Board has determined that during the transition period through year-end 1990 for implementation of the risk-based capital guidelines contained in Appendix A to this part and in Appendix A to part 208, a banking organization may choose to fulfill the requirements of the guidelines relating capital to total assets contained in this Appendix in one of two manners. Until year-end 1990, a banking organization may choose to conform to either the 5.5 percent and 6 percent minimum primary and total capital standards set forth in this Appendix or the 7.25 percent year-end 1990 minimum risk-based capital standard set forth in Appendix A to this part and Appendix A to part 208. Those organizations that choose to conform during this period to the 7.25 percent year-end 1990 risk-based capital standard will be deemed to be in compliance with the capital adequacy guidelines set forth in this Appendix.

6. Appendix D is added after Appendix C to part 225 to read as set forth below.

Appendix D to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Tier 1 Leverage Measure

I. Overview

The Board of Governors of the Federal Reserve System has adopted a minimum ratio of Tier 1 capital to total assets to assist in the assessment of the capital adequacy of bank holding companies ("banking organizations").[1] The principal objective of this measure is to place a constraint on the maximum degree to which a banking organization can leverage its equity capital base.

The guidelines apply on a consolidated basis to bank holding companies with consolidated assets of $150 million or more. For bank holding companies with less than $150 million in consolidated assets, the guidelines will be applied on a bank-only basis unless: (a) The parent bank holding company is engaged in nonbank activity involving significant leverage; [2] or (b) the parent company has a significant amount of outstanding debt that is held by the general public.

The Tier 1 leverage guidelines are to be used in the inspection and supervisory process as well as in the analysis of applications acted upon by the Federal Reserve. The Board will review the guidelines from time to time and will consider the need for possible adjustments in light of any significant changes in the economy, financial markets, and banking practices.

II. The Tier 1 Leverage Ratio

The Board has established a minimum level of Tier l capital to total assets of 3 percent. A banking organization operating at or near these levels is expected to have well-diversified risk, including no undue interest rate risk exposure; excellent asset quality; high liquidity; good earnings; and in general be considered a strong banking organization, rated composite l under the BOPEC rating system for bank holding companies. Organizations not meeting these characteristics, as well as institutions with supervisory, financial, or operations weaknesses, are expected to operate well above minimum capital standards. Organizations experiencing or anticipating significant growth also are expected to maintain capital well above the minimum levels. For example, most such organizations generally have operated at capital levels ranging from 100 to 200 basis points above the stated minimums. Higher capital ratios could be required if warranted by the particular circumstances or risk profiles of individual banking organizations. In all cases, banking organizations should hold capital commensurate with the level and nature of all of the risks, including the volume and severity of problem loans, to which they are exposed.

A banking organization's Tier 1 leverage ratio is calculated by dividing its Tier 1 capital (the numerator of the ratio) by its average total consolidated assets (the denominator of the ratio). The ratio will also be calculated on the basis of period-end assets whenever necessary on a case-by-case basis. For the purpose of this leverage ratio, the definition of Tier l capital for year-end 1992 as set forth in the risk-based capital guidelines contained in Appendix A to this part will be used.[3] Average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the banking organization's Consolidated Financial Statements ("FR Y-9C Report"), less goodwill and any other intangible assets or investments in

[1] Supervisory risk-based capital ratios that relate capital to weighted risk assets for bank holding companies are outlined in Appendix A to this Part.

[2] A parent company that is engaged in significant off-balance sheet activities would generally be deemed to be engaged in activities that involve significant leverage.

[3] At the end of 1992, Tier 1 capital for bank holding companies includes common equity, minority interests in equity accounts of consolidated subsidiaries, and qualifying cumulative and noncumulative perpetual preferred stock. (Perpetual preferred stock is limited to 25 percent of Tier 1 capital.) In addition, Tier 1 excludes goodwill. In general, no other deductions from capital are made automatically. However, the Federal Reserve may, on a case-by-case basis, exclude certain other intangibles and investments in subsidiaries as appropriate.

subsidiaries that the Federal Reserve determines should be deducted from Tier 1 capital on a case-by-case basis.[4]

Whenever appropriate, in particular when an organization is undertaking expansion, seeking to engage in new activities or otherwise facing unusual or abnormal risks, the Board will continue to consider, on a case-by-case basis, the level of an individual organization's tangible Tier 1 leverage ratio (after deducting all intangibles) in making an overall assessment of capital. This is consistent with the Federal Reserve's risk-based capital guidelines and long-standing Board policy and practice with regard to leverage guidelines. Organizations experiencing growth, whether internally or by acquisition, are expected to maintain strong capital positions substantially above minimum supervisory levels, without significant reliance on intangible assets.

[4] Deductions from Tier 1 capital and other adjustments are discussed more fully in section II.B. of Appendix A to this part.

Board of Governors of the Federal Reserve System, December 29, 1989.

William W. Wiles,

Secretary of the Board.

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federal register

Friday
January 5, 1990

Part VI

The President

Notice of January 4, 1990—Continuation of Libyan Emergency

Federal Register
Vol. 55, No. 4
Friday, January 5, 1990

Presidential Documents

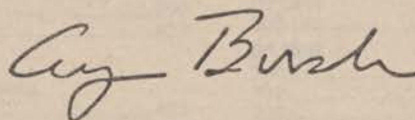
Title 3—

The President

Notice of January 4, 1990

Continuation of Libyan Emergency

On January 7, 1986, by Executive Order No. 12543, President Reagan declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Libya. On January 8, 1986, by Executive Order No. 12544, the President took additional measures to block Libyan assets in the United States. The President transmitted a notice continuing this emergency to the Congress and the **Federal Register** in 1986, 1987, and 1988. Because the Government of Libya has continued its actions and policies in support of international terrorism, the national emergency declared on January 7, 1986, and the measures adopted on January 7 and January 8, 1986, to deal with that emergency, must continue in effect beyond January 7, 1990. Therefore, in accordance with Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Libya. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
January 4, 1990.

[FR Doc. 90-472
Filed 1-4-90; 12:53 pm]
Billing code 3195-01-M

Editorial note: For the text of the President's letter to the Speaker of the House of Representatives and the President of the Senate, dated Jan. 4, on the continuation, see the *Weekly Compilation of Presidential Documents* (vol. 26, no. 1).

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